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ABSTRACT

This document contains a handbook and a booklet of classroom activities to use with the handbook. The handbook is a compilation of the law, procedures, and practices which govern the legislative process in Georgia. It addresses the practical problems faced by members of the Georgia legislature. Chapter one discusses the General Assembly, its origin, sessions, membership, and size. Chapter two provides information on elections, financial remuneration, fringe benefits, offices and parking, and the privileges and immunities of members. Chapter three covers the convening and organizing of the legislature, including the election of officers for both houses and the committee system. Chapter four explains powers and limitations in both lawmaking and non-lawmaking capacities. Sample and joint resolutions and bills are examined in chapter five. The elements of the lawmaking process which include drafting, introducing and reading of bills, the calendar, floor debate, voting and post legislative action, are dealt with in chapter six. Chapter seven details rules of procedure, particularly motions. The final chapter examines legislative staff and resources. The classroom activities include tests and worksheets, a legislative glossary, a chart showing how a bill becomes a law, and a crossword puzzle and key. The document can be used as a model for other states. (Author/SH)

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Handbook for Georgia Legislators

6th Edition

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND USERS OF THE ERIC SYSTEM."

by Edwin L. Jackson

SO 010 484

Institute of Government
The University of Georgia

HANDBOOK FOR GEORGIA LEGISLATORS

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Foreword

For nearly fifty years the Institute of Government at the University of Georgia has worked to make the resources of the University more readily available to Georgia state and local officials. Through a program of research, training, and technical assistance, the Institute has attempted to inform Georgia public officials of laws, programs, techniques and practices which are relevant to their work.

This publication, a product of Institute research, attempts to bring together in one volume fundamental law, procedures, and practices which govern the legislative process in Georgia. It is directed toward the practical problems faced by members of the Georgia General Assembly, especially the new members of that body.

The author of the Sixth Edition of the *Handbook* is Mr. Edwin L. Jackson, state governmental associate in the Institute's Governmental Research and Services Division. This edition updates previous editions and adds several new topics, including the historical background of the General Assembly, separation of powers, delegation of legislative powers, a legal analysis of bills and resolutions, and rules of judicial construction. Extensive annotations of recent court decisions in all areas covered by the *Handbook* have also been added.

A given edition of any publication necessarily builds upon previous editions, and the present *Handbook* is a product of the efforts of numerous people since 1958. Mr. R. Perry Sentell, Jr., who was then an assistant professor in the Institute of Government and who is now a professor in the University of Georgia School of Law, prepared several earlier editions of this publication. Mr. Lewis J. Grout, an attorney in the Institute of Government, was responsible for its comprehensive revision in 1970. The Fifth Edition of the *Handbook*, originally published in April 1973, was prepared by Ms. Cynthia T. Nonidez, Mr. Edwin L. Jackson and Mr. Rollin M. McCommons, all of whom were state government specialists in the Institute. Since 1973, Mr. Jackson has been responsible for incorporating changes in the Georgia legislative process into the *Handbook*'s successive printings.

The Institute wishes to express appreciation to the many legislative officials and staff members who have reviewed manuscripts, answered questions, supplied information and otherwise assisted in the preparation of this *Handbook* through the years. In particular, the Institute wishes to acknowledge the assistance of Mr. Hamilton McWhorter, Jr., Mrs. Alice Enright Hoge, Ms. Amelia Smith, and Mr. Cary Bond and the other staff members in the offices of the Secretary of the Senate, Clerk of the House, and Legislative Counsel.

Ms. Ann Blum, Institute editor, supervised production of the *Handbook*. She was assisted in the editing and production by Ms. Crafton Pease, Ms. Emily Honigberg, Ms. Miriam Peiffer, and Ms. Vicki Womack. Mr. Ed Sailers was responsible for typesetting.

November, 1976

Delmer D. Dunn
Institute of Government
University of Georgia

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NOTE:

Because the Constitution of 1976 does not become effective until January 1, 1977, footnotes in this *Handbook* refer to the Constitution of 1945, except where otherwise indicated. Appendix 4 completely cross-references the two Constitutions.

Chapter I

Georgia's General Assembly

The Constitution of Georgia establishes three separate branches of government–the legislative, judicial, and executive–and declares that they are to remain forever separate and distinct.[1] Each, however, is given a number of checks over the other branches, so that, "The separation is not, and, from the nature of things, can not be total."[2] Nevertheless, in a republican form of government, the courts have said, the legislative authority necessarily predominates among the three coordinate branches of government.[3]

In Georgia, as in eighteen other states, the official name of the legislative body is "General Assembly."[4] In common usage, however, it is frequently referred to as the "Georgia Legislature," and the two names are used interchangeably in this *Handbook*.

Like all states except Nebraska, Georgia has a bicameral, or two-house, legislative body, consisting of a Senate and a House of Representa-

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1. Ga. Const. art. I, sec. I, par. XXIII.

2. *Beall v. Beall*, 8 Ga. 210 (1850). See discussion of separation of powers in Chapter IV.

3. *Walker v. Whitehead*, 43 Ga. 538 (1871); *Myers v. U.S.*, 272 U.S. 52, 47 S. Ct. 21 (1926). See Chapter IV.

4. Two states use the term "Legislative Assembly"; two states use the name "General Court"; and the remainder use the term "Legislature" as the official designation of their legislative bodies. *The Book of the States, 1976-77* (Lexington, Ky.: Council of State Governments, 1976), p. 41.

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tives. However, this has not always been the case, since Georgia is one of four states to have experimented with a unicameral legislature.[5]

ORIGINS OF THE GENERAL ASSEMBLY

The history of legislative assemblies in Georgia begins in 1750, two years before Georgia became a royal colony.[6] Prior to that time, Georgia's Trustees, by virtue of their 1732 charter, exercised legislative, executive, and judicial powers to the extent that their actions conformed to English laws and met the approval of the King in Council.

There was no representative assembly in the colony until a Trustees' resolution in March 1750 authorized Georgia's colonists to hold an assembly of elected deputies in Savannah, with representation to be based roughly on population. Although little is known about how they were elected to the assembly, sixteen representatives met in Savannah for the first time on January 15, 1751. They had no legislative powers, however, since the assembly had been created to advise the Trustees on conditions in the colony and to report on various census data from each district. During the twenty-four day session, a variety of measures for improvement of the colony were debated, with grievances submitted to both local authorities and the Trustees. Many grievances were favorably acted upon by local authorities, and while the Trustees did not accept all of the assembly's recommendations, several were adopted. This assembly never met again, however, since the Trustees surrendered their charter to the Crown the following year.

Under royal government, provision was made for a General Assembly, consisting of an elected lower house, called the Commons House of Assembly, and the Governor's Council (whose twelve members were appointed by the Crown), known as the Upper House of Assembly.

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[5] In addition to Georgia, Pennsylvania and Vermont used a unicameral legislature during the Revolutionary period. Georgia abandoned a one-house legislature in 1789, followed the next year by Pennsylvania. However, Vermont continued its unicameral legislature until 1836. In 1934 Nebraska voters approved a constitutional amendment to replace their bicameral legislature with a unicameral body, and its first session was held in 1937.

[6] For a discussion of the historical background of legislative bodies in Georgia, see: Albert B. Saye, *A Constitutional History of Georgia, 1732-1968* (Athens: University of Georgia Press, 1970); Walter McElreath, *A Treatise on the Constitution of Georgia* (Atlanta: The Harrison Co., 1912); and Robert Gerwig, "Colonial Georgia: Path to Self-Government," 12 *Georgia State Bar Journal* 130 (February 1976).

The Commons House first met in January 1755, with nineteen representatives elected by landowners of fifty or more acres within the colony.

Meetings of this General Assembly were called by the royal governor, with members' terms lasting until he dissolved the assembly. Laws passed by the body could be vetoed by the governor (with no legislative override), or by the British Privy Council. Despite its restrictions and the frequent dissolutions in later years, this assembly met at various intervals during the next twenty years, enacting important laws for the colony which included the levying of taxes, appropriation of money, limitation of interest on loans, and regulation of the Indian trade.

Incidentally, many of the legislative offices and procedures used by today's General Assembly trace to the 1755 body. These include the practice of three readings of a bill, the requirement that money bills originate in the lower house, use of "the previous question," the presiding over the upper house by the Lieutenant Governor, use of "Committee of the Whole," and such officers as the Speaker and Clerk of the House.[7]

As discontent with British rule grew in Georgia, a call was issued in January 1775 for convening a Provincial Congress in Savannah on the same date that the royal Commons House of Assembly was to open. However, since only five parishes sent delegates, it was ineffective as an alternate representative body.

The outbreak of hostilities against British forces in May 1775 again stirred sentiment for an end to royal government in Georgia, and a Council of Safety was established in June, followed by a call for election of members to a Second Provincial Congress. More than one hundred delegates, representing every parish, met on July 4. In the months that followed, this one-house Congress assumed executive, legislative, and judicial functions, with the Council of Safety exercising governmental authority when the Congress was not in session. A Third Provincial Congress met in January 1776, and though forced to flee Savannah in the face of British attack, reassembled in Augusta, where it adopted Georgia's first temporary constitution.

The Constitution of 1777 provided for a legislature composed of representatives elected annually from each of the counties and from two cities. Seventy-two representatives were elected according to the apportionment plan, and met to select a governor, and then elect from their own number, twelve representatives to serve as an Executive Council. The remaining sixty members served as the House of Assembly.

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[7] Saye, *A Constitutional History of Georgia*, p. 61. Many of the practices adopted by this early body, of course, were adapted from British parliamentary rules and tradition.

Full legislative authority rested with the House of Assembly. The Executive Council could only recommend changes in proposed laws and had no formal legislative authority. Thus, Georgia joined two other states of the Revolutionary period–Pennsylvania and Vermont–in providing for a unicameral legislative body.[8]

Following independence, Georgia continued its one-house legislative body until the Constitution of 1789 provided for a "General Assembly" composed of two separate houses–an arrangement continued through all succeeding constitutions. Under this Constitution, the legislature elected the governor, who did however now have veto authority over its acts, subject to override by two-thirds of both houses. In 1824 provision was made for popular election of the state's chief executive.

CHANGES IN MEMBERSHIP AND SESSIONS

Since 1789, Georgia's legislative body has undergone a number of changes affecting its size, basis for apportionment, frequency of meetings, length of sessions, and terms of office for members.

CHANGES IN TERMS OF OFFICE

Except for the periods 1789-1795 and 1868-1877, Senators and Representatives have been elected for identical terms. This has meant that the entire General Assembly has usually been before the voters for reelection at one time, resulting in the reorganization of the legislature following every election.

Initially, Representatives served one-year terms, with three-year terms for Senators. In requiring more extensive qualifications for the Senate than the House, Georgia is reputed to be the first state to so discriminate between the two houses.[9] In 1795, however, senatorial terms were reduced to one year, and the entire General Assembly was elected annually, a practice continued until an 1841 constitutional amendment extended terms to two years for both houses, beginning in 1843.

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8. It has been argued that Georgia did not have a true unicameral legislative body, because even though the Executive Council could not veto actions of the other house, it did play an important role in the law-making process. See Henry Luce, *Legislative Assemblies* (New York: Houghton Mifflin Co., 1924), p. 24.

9. McElreath, *A Treatise on the Constitution of Georgia*, p. 88.

During Reconstruction, terms for Senators were increased to four years, but they were returned to two years in 1877, and have remained at this length to the present.

One interesting practice adopted by the State Democratic Party earlier in this century, and formalized by the General Assembly in 1939, was that of rotating Senators at each biennium among the different counties comprising a district.[10] All but two senatorial districts were comprised of three counties each, and a procedure was instituted whereby each county within a district took a turn at electing the Senator for that district. The Senator had to reside in the county whose turn it was under the rotation, and in the Democratic primary only voters of that county could vote on the office. Occasionally, a county would defer and allow an incumbent to stay in office, but usually there was a wholesale turnover in the Senate every two years. Georgia's rotating senatorial scheme was declared unconstitutional, however, by a federal district court in 1962,[11] and the General Assembly subsequently abolished the practice at a special session that year.

CHANGES IN FREQUENCY AND LENGTH OF SESSIONS

Sessions of the General Assembly have been held on an annual basis since 1777, except for the periods of 1843-1857 and 1925-1943, when biennial sessions were held. (See Table 1.)

The current session length—forty days—was first set by a 1955 constitutional amendment, later amended in 1962 to authorize forty-five days in odd-numbered years. The 1962 change also instituted a split session in odd years whereby the legislature convened in January for no more than twelve days to organize and receive a general appropriations bill from the governor. Afterwards the legislature adjourned for a budget recess of several weeks, reconvening in February for no more than thirty-three additional days. Even though a 1972 constitutional change provided for annual appropriations acts, the forty-five/forty day limit associated with the former biennial appropriation process remained in effect through 1976. The Constitution of 1976 reinstituted the forty day session limit for both odd and even years, effective with the 1977 General Assembly, and abolished the formal split session in odd years.

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10. Ga. Laws 1939, p. 311; Ga. Laws 1946, p. 44; and Ga. Laws 1950, p. 165. For a discussion of this system, see William G. Cornelius, *Southeastern State Legislatures* (Atlanta: Emory University School of Law, 1967), p. 58; and Doyle Mathis, "Georgia's Reapportionment History and Process," in Brett W. Hawkins (ed.), *Reapportionment in Georgia* (Athens: Institute of Government, 1970), pp. 6-7.

11. *Toombs v. Fortson*, 205 Fed. Supp. 248 (1962).

TABLE 1

LEGISLATIVE SESSIONS SINCE 1777

Year Instituted	Session Held	Length of Session
1777	Annually	No limit
1843	Biennially	No limit
1857	Annually	40 days[a]
1880	Biennially[b]	40 days[a]
1893	Annually	50 days
1925	Biennially	60 days
1933	Biennially	70 days[c]
1944	Biennially[d]	70 days
1955	Annually	40 days
1963	Annually	45/40 days[e]
1977	Annually	40 days

[a] This limit could be extended (and often was) by two-thirds vote of both houses. In the 1869-1870 biennium, for example, the General Assembly was in session for a total of 328 days, and in 1889, for 140 days. [McElreath, A TREATISE ON THE CONSTITUTION OF GEORGIA, pp. 169-174.]

[b] Although biennial sessions were formally dictated, in practice the legislature was in session at some time during every year between 1880 and 1893.

[c] Based on a "split session" of ten days for organizing in January, and sixty days for a regular session later in the same year.

[d] Though biennial sessions were formally dictated, the legislature could adjourn during the first year and reconvene the following year, as long as the total seventy-day limit was not exceeded. From 1944 to 1955, the legislature met in regular session every year except 1944, 1948, and 1954.

[e] See HANDBOOK, page 5.

CHANGES IN THE SIZE OF THE GENERAL ASSEMBLY

Historically, apportionment of House and Senate membership has been based on counties, population (sometimes roughly apportioned), or a combination of both. The size of these bodies–especially the House of Representatives–usually has been free to fluctuate (invariably upward) as new counties were created and populations increased, although there have not always been direct correlations between population and representation in the legislature. During some periods, precise sizes have been constitutionally set, which have necessitated redrawing apportionment districts or further amending these constitutional limits as counties were added or as populations shifted.

House Size: Until House elections in 1965, every apportionment plan for the House in the state's history has given each county then in existence at least one representative, with some formula for giving additional representation based on population. Table 2 illustrates the changes in House size, the number of counties in existence with each change, and the representation possible to each county.

The Georgia Constitution of 1945 incorporated a formula for apportioning members of the House, whereby the eight largest counties receive three representatives each; the next thirty largest counties, two representatives each; and the remaining counties, one each. In June 1964, however, a federal district court declared this provision void and inoperative on the grounds that the system violated the voters' equal protection under the fourteenth amendment to the U.S. Constitution.[12] Under court directive to reapportion on the basis of population alone, the General Assembly adopted a new plan for the House in 1965. While the court rejected this method of apportionment because of population variances among districts, it allowed the plan to operate until further redistricting could be accomplished.

TABLE 2

CHANGES IN THE SIZE OF THE GEORGIA HOUSE OF REPRESENTATIVES SINCE 1789

Year	Size	Counties	Representatives Allowed Per County
1789	34	11	2-5
1795	41	16	2-4
1798	58	23	1-4
1838	208	92	1-4
1844	130	93	1-2
1851	135	95	1-2
1860	169	132	1-2
1868	175	132	1-3
1904	183	137	1-3
1908	184	146	1-3
1914	189	148	1-3
1918	193	156	1-3
1920	206	160	1-3
1924	207	161	1-3
1932	205	159	1-3
1969	195	159	*
1972	180	159	*

*Representation not based on counties.

NOTE: Between 1798 and 1843, the size of the House consistently increased as new counties were created and population grew.

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[12] *Toombs v. Fortson* (N.D. Ga., June 30, 1964).

TABLE 3

CHANGES IN THE SIZE OF THE GEORGIA SENATE SINCE 1789

Year	Size	Year	Size
1789	11	1859	132
1800	24	1861	44
1830	79	1919	51
1838	93	1938	52
1844	47	1946	54
1853	98	1969	56

NOTE: Between 1789 and 1843, and between 1853 and 1860, the size of the Senate increased directly with the number of counties within the state.

At the 1967 session, both houses adopted new apportionment plans, with the House reducing its membership from 205 to 195. Court objections to some districts led to further reapportionment at the 1968 session, but retention of the new 195-member size.

The 1970 census necessitated further reapportionment, resulting in a 1971 reduction of House size to its current figure–180 members. Subsequent modifications to this plan, while affecting the composition of various districts, did not change the total membership of the House.

The Constitution of 1976 now allows the General Assembly to apportion the House by statute, and create, rearrange, and change House districts without constitutional limitation.[13]

Senate Size: Creation of the Senate in 1789 included provision for equal representation of counties within that body, a plan similar to the equal representation of states in the U.S. Senate adopted the same year. Each county–regardless of population–was to be entitled to one Senator.

As the number of counties increased, so did the size of the Senate, and by 1838 it had ninety-three members. An 1844 constitutional amendment instituted a plan of forty-seven single-member districts, but in 1852 the former basis of representation–one Senator from each county–was restored. By 1859, the Senate totaled 132 members, leading to a return to single-member districts and a reduction to forty-four members.

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[13] Ga. Const. of 1976: art. III, sec. III, par. I.

Since 1861, the Georgia Senate has been apportioned on the basis of single-member districts, though federal courts in the 1960s ruled that these districts must be based solely on population, and not on counties.

From time to time constitutional amendments have not only reduced but enlarged the Senate's size. A 1968 amendment, which still holds, provides that the body consist of not less than fifty-four nor more than fifty-six members, the precise number to be set by the General Assembly.

Chapter II

Membership

COMPOSITION OF THE GENERAL ASSEMBLY

The Georgia Senate is composed of 56 members, and the House, of 180 members. The General Assembly is free to change the size of the House by general statute,[1] but a 1968 constitutional amendment requires that the Senate consist of not less than 54 nor more than 56 members, with the exact number to be set by the General Assembly.[2] Since that amendment, the Senate has been maintained at the upper limit.

With a total membership of 236, Georgia's General Assembly is tied with Illinois as the third largest state legislature in the United States. The Georgia House ranks third in size among lower houses of state legislatures, and the Georgia Senate fourth among state senates.[3]

QUALIFICATIONS FOR MEMBERSHIP

FORMAL QUALIFICATIONS

The Constitution of Georgia requires members of both houses of the General Assembly to be United States citizens, but provides slightly different age and residency requirements for each.

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1. Ga. Const. of 1976: art. III, sec. III, par. I.
2. Ga. Const. art. III, sec. II, par. I.
3. *Book of the States, 1976-77*, pp. 42-43.

A Senator must be at least twenty-five years of age, and a citizen of Georgia for at least four years.[4] A Representative need only be twenty-one, and a state citizen for at least two years.[5]

Georgia law additionally requires residency within the senatorial or House district from which elected for at least one year immediately preceding election.[6] Furthermore, should a Senator or Representative move from the district from which elected, that seat in the General Assembly is automatically declared vacated.[7]

OTHER PROVISIONS RELATIVE TO MEMBERSHIP

In addition to the formal qualifications for office, a number of constitutional and statutory provisions bear on eligibility to campaign for and/or hold office in the General Assembly.

Criminal Records: Unless pardoned and all rights of citizenship restored, no person may hold office in the General Assembly who has been convicted by a court of competent jurisdiction of any of the following crimes: malfeasance in office, bribery or larceny, treason against the state, or any crime involving moral turpitude punishable by Georgia law.[8]

Public Moneys, Debts, Taxes: No person holding any public money contrary to law, or who refuses or is unable to account for and return such money to the state, or who has defaulted on public money or taxes owed the state may hold office in the General Assembly.[9] Furthermore, any legislator receiving, directly or indirectly, any interests, profits, or perquisites arising from the use or loan of public funds under his responsibility is disqualified from holding office (in addition to being subject to felony prosecution).[10]

Incapacity: Although there are no mandatory retirement ages for the General Assembly, Georgia law provides that persons of unsound mind or those who, from advanced age or bodily infirmity, are unfit to discharge the duties of public office are ineligible to hold it.[11]

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[4] Ga. Const. art. III, sec. V, par. I.

[5] *Ibid.*, art. III, sec. VI, par. I.

[6] Ga. Code Ann. sec. 47-102 and 47-101.

[7] Ga. Const. art. III, sec. IV, par. VII.

[8] *Ibid.*, art. II, sec. II, par. II. See also Ga. Code Ann. sec. 89-101(3) and sec. 89-505.

[9] Ga. Const. art. II, sec. IV, par. I; Ga. Const. art. III, sec. IV, par. VI; Ga. Code Ann. sec. 89-101(2).

[10] Ga. Const. art. VII, sec. III, par. VI.

[11] Ga. Code Ann. sec. 89-101(5). See also Ga. Const. art. II, sec. II, par. I.

Should a court determine that any state officeholder has abandoned that office, has ceased performing his duties, or has become incapacitated or ineligible to continue (whether by voluntary act or misfortune of the incumbent), that office shall be declared vacant.[12] Failure of an elected member of the General Assembly to obtain the proper commission for that office is also sufficient grounds for vacating the office.[13]

Qualifying For Election: All candidates for the General Assembly seeking their party's nomination in a primary must qualify with their state political party in accordance with the procedural rules of their party.[14] Also, all candidates–whether seeking office through party primary, as members of a political organization, or as independents–must qualify within time periods and procedural requirements of the state election code.[15] The Georgia Constitution further stipulates that no person elected on a write-in vote can hold office unless notice of intention of candidacy has been filed with the Secretary of State twenty or more days prior to the election, and unless notice has been placed in a publication of general circulation within the state.[16]

One important stipulation imposed by the state election code on candidates for office is that a candidate may not seek nomination in the primary of one political party while seeking that or any other office in the primary of another party.[17]

Restrictions on Holding Other Offices: No one may occupy a seat in either house who holds a compensated office or a military commission from Georgia or the United States, except justices of the peace and officers of the militia.[18] An early Georgia Supreme Court decision held that this provision would void the election to the General Assembly of one already holding another state office, but would not affect his right to the *prior-held position.*[19]

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[12] Ga. Code Ann. sec. 89-501(4).

[13] *Ibid.*, sec. 89-501(6).

[14] *Ibid.*, sec. 34-1005.

[15] *Ibid.*, chap. 34-10 provides most of these procedures.

[16] Ga. Const. art. II, sec. VII, par. I.

[17] Ga. Code Ann. sec. 34-1016.

[18] Ga. Const. art. III, sec. IV, par. VI. Because of this constitutional provision, the exemption of postmasters and officers and enlisted reservists of the armed forces from the general prohibitions against holding public office in the state [Ga. Code Ann. 89-101(4) as amended by Ga. Laws 1972, p. 868] does not appear to apply to the General Assembly. It has not been established whether reorganization of the U.S. Post Office Department into a public corporation will have any effect on the eligibility of employees of the postal service to serve in the General Assembly. Reservists, however, are apparently considered officers of the militia, and would thus not be precluded from holding membership in the General Assembly.

In addition, no one seeking membership in the General Assembly may offer himself at the same primary for constitutional officer in the executive branch, (*e.g.*, Commissioner of Labor, Secretary of State, etc.), or for any of the following offices: U.S. Senator or Representative, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Probate Court, Clerk of Superior Court, Tax Commissioner, Tax Collector, Sheriff, Judge of Superior Court, County Treasurer, County School Superintendent, or Tax Receiver.[20] There seems to be no restriction against holding office in the General Assembly and simultaneously holding a county or municipal office not specified above.[21]

The Georgia Constitution declares that the legislative, judicial, and executive branches shall remain separate and distinct, and no one discharging the duties of one may, at the same time, exercise the functions of either of the others, except as the Constitution specifically allows.[22] For example, no judge of a court of record (excepting justices of the peace) nor a judge's clerks or assistants may hold office in the legislature, nor may officers or employees of the executive branch.[23]

This prohibition has been construed by the Georgia Supreme Court to preclude a member of the General Assembly from holding any office or employment in the executive or judicial branches, including membership on boards and commissions (including authorities) involved in executive functions.[24] However, this preclusion apparently does not apply to legislative membership on various *advisory* boards and councils in the executive branch.

A Senator or Representative cannot be elected by the General Assembly, nor appointed by the Governor, to any office which has an emolument during the period for which he or she has been elected unless first resigning from the legislature.[25] This provision, however, does not prevent a Senator or Representative from being elected by the General Assembly or appointed by the Governor, with additional compensation, to certain legislative offices—such as the Speaker of the House, the House and Senate Majority Leaders, and the Administration Floor Leaders. Further, no legislator, during the term for which elected, can be appointed to any civil office which has been created during that term.[26]

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[19] *McWilliams v. Neal*, 130 Ga. 733, 61 S.E. 721 (1908).

[20] Ga. Code Ann. sec. 34-1014.

[21] See Opinions of the Attorney General 536 (1965-66), 437 (1963-65), and 383 (1954-56). A contrary opinion–unofficial as were the others–was offered based on provisions of Ga. Code Ann. sec. 89-101(4) in Ops. Att'y Gen. 442 (1963-65).

[22] Ga. Const. art. I, sec. I, par. XXIII; Ga. Code Ann. sec. 26-2309.

[23] Ga. Code Ann. sec. 26-2309.

[24] *Greer v. State*, 233 Ga. 667 (1975) and *Murphy v. State*, 233 Ga. 681 (1975). Also see Ops. Att'y Gen. 223 (1974).

REQUIRED OATH OF OFFICE AND COMMISSION

Required Oath: Each Representative and Senator, before taking a seat, must take the following oath or affirmation:

> I will support the Constitution of this State, and of the United States, and on all questions and measures which may come before me, I will so conduct myself as will, in my judgment, be most conducive to the interests and prosperity of this State.[27]

Georgia statutes also require an oath that the new officeholder: does not hold any public money due the state which has not been accounted for; is not a holder of any office of trust under the United States government (except postmaster), nor under any other state or foreign government; is qualified to hold the office; and has been a resident for the time required by Georgia Constitution and laws.[28] Finally, the legislator must take a loyalty oath stating that he or she is not a member of the Communist party.[29]

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[25] Ga. Const. art. III, sec. IV, par. VI.

[26] *Ibid.* Also, in what appears to be the only appellate court decision considering these two prohibitions, the Georgia Supreme Court sustained the Governor's appointment of the Speaker of the House of Representatives to the State School Building Authority—an authority which the Speaker, as a member of the General Assembly, had helped to create. The court based its holding upon the establishing act's express declaration that authority members were to receive no compensation (thus no emolument was annexed), and upon its determination that the authority did not constitute a civil office because it did not perform "governmental functions." In making this latter determination, the court disregarded the act's express provision that governmental functions would be exercised by the authority. See *Sheffield v. State School Building Authority*, 208 Ga. 575, 68 S.E. 2d 590 (1952). See also *McLucas v. State Bridge Building Authority*, 210 Ga. 1, 77 S.E. 2d 531 (1953); *Greer v. State*, 233 Ga. 667 (1975) and Ops. Att'y Gen. 223 (1974).

[27] Ga. Const. art. III, sec. IV, par. V.

[28] Ga. Code Ann. sec. 89-302.

Rather than administer three separate oaths of office, the General Assembly practice has been to combine and administer the three oaths as one.[30]

Commission: Each member of the Georgia General Assembly is entitled to a commission after taking the oath of office.[31] It is the Secretary of State's duty to prepare and furnish to the legislator this commission which bears the Great Seal of the State.[32] The commission recognizes that the person is a duly elected member of the General Assembly of Georgia for the term specified and notes any prior service which may have been performed in either house.[33]

ELECTIONS

TERMS

Members of both House and Senate are elected at the general election held on the Tuesday following the first Monday in November of even-numbered years. Both serve two-year terms of office, which begin on the second Monday in January following election (the time for convening the regular session), and end with the convening of the General Assembly following the second year of the term.[34] Neither house provides for staggered terms, and each member of the General Assembly must face reelection every two years.

FILLING VACANCIES

Georgia relies on the special election, rather than gubernatorial appointment, to fill vacancies that occur in the General Assembly.[35]

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[29] *Ibid.*, sec. 89-311-315.

[30] See p. 33 for the wording of the combined oath.

[31] Ga. Code Ann. sec. 47-118.

[32] *Ibid.*

[33] *Ibid.*

[34] Ga. Const. art. III, sec. IV, par. I-II.

[35] *Ibid.*, art. V, sec. I, par. XII; Ga. Code Ann. sec. 34-1514. See also Ops. Att'y Gen. 74 (1969).

Should a seat become vacant during a session of the General Assembly, or at a time when legislators would have to meet prior to the next general election, the governor issues within ten days of such vacancy (or after the calling of a special session) a writ of election to the probate judge or judges in the district involved.[36] An election to fill the vacancy then takes place as authorized by the writ, no less than thirty nor more than sixty days after its issuance.

The House of Representatives has a rule that in the event of a special election to fill a vacancy when the House is not in session, the oath of office shall not be administered to the person elected, nor shall such person be recognized as a member of the House, for ten days after the certification of the election to the Clerk of the House.[37] If the seating of this person should be contested during the ten-day period, the matter is referred to the Rules Committee, which must meet as soon as practicable thereafter to resolve the contest. Its decision stands until the convening of the next session of the General Assembly, when the House may affirm or reverse the committee, or take such other action as it sees fit.[38]

HOUSE AND SENATE DISTRICTS

One Senator is elected from each of Georgia's fifty-six, single-member senatorial districts.[39] In contrast, the House is composed of both single-member and multi-member districts. Georgia law provides for 154 House districts, to be represented by 180 Representatives.[40] Single members represent 138 of these districts, while two or more Representatives serve each of the remaining 16 districts. A Representative from a multi-member district is elected by the voters of that entire district to the particular "post" which that member designated prior to the primary and general elections.

Reapportionment acts in 1972 effected a major change in the composition of the Georgia House and Senate by creating legislative districts which are no longer drawn strictly according to county lines. They may instead be composed of either a portion of a county, a whole county, several counties, or any combination of these. Appendixes I and II contain maps of current House and Senate districts.

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[36] Ga. Code Ann. sec. 34-805.

[37] House Rule 251(b).

[38] *Ibid.*

[39] Ga. Const. art III, sec. II, par. I; Ga. Code Ann. sec. 47-102.

[40] Ga. Code Ann. sec. 47-101.

According to the Georgia Constitution, the House and Senate must be reapportioned as necessary at the first session after each United States decennial census becomes official.[41] Federal courts insist that such reapportionments in both houses be conducted strictly on a basis of population, with minimum deviation among similar legislative districts.[42] While the U.S. Voting Rights Act continues in effect, all reapportionment plans (as well as other election changes) for the Georgia General Assembly must be submitted to the U.S. Attorney General for approval before becoming effective.[43]

SALARY AND ALLOWANCES

Members of the General Assembly receive an annual salary of $7,200, paid in twelve equal monthly installments.[44] There is no additional remuneration for any further service as a legislator–including special sessions–except for expense, mileage, and travel allowances as noted below.

The salary of legislators in both houses was set at its current figure in 1973. Previously, members had received $4,200 annually, as authorized by 1966 legislation.

SALARIES FOR LEGISLATIVE OFFICERS

In recognition of the greater demands placed on their offices, certain legislative leadership positions in the General Assembly are authorized to receive supplemental amounts over their basic $7,200 salaries. The Speaker of the House of Representatives is paid an additional $17,800, for a total salary of $25,000. This gives him the same salary as his counterpart in the Senate, the Lieutenant Governor. The Speaker Pro Tempore in the House and President Pro Tempore in the Senate each receive a $2,800 supplement. The Majority Leader, Minority Leader, and Administration Floor Leader in both House and Senate, as well as the Assistant Administration Floor Leaders in the Senate, each receive additional amounts which are provided by resolution in each house, but shall not be greater than the amount provided for the Speaker Pro Tempore of the House.[45] Longevity pay and allowances, previously in effect for some of these officers, were eliminated in 1973.[46]

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[41] Ga. Const. art. III, sec. II, par. I; art. III, sec. III, par. II. See Chapter I of this *Handbook* for a history of reapportionment efforts in Georgia.

[42] *Toombs v. Fortson*, 205 F. Supp. 248 (N.D. Ga., 1962); *Gray v. Sanders*, 372 U.S. 368 (1963); *Reynolds v. Sims*, 377 U.S. 533 (1964); *Kilpatrick v. Preisler*, 394 U.S. 526 (1969); *Wells v. Rockefeller*, 394 U.S. 542 (1969); and *Georgia v. United States*, 411 U.S. 526 (1973). For a history of reapportionment in Georgia prior to 1970, see Brett W. Hawkins (ed.), *Reapportionment in Georgia* (Athens: Institute of Government, 1970). For a comparative view of recent state legislative redistricting, see Council of State Governments, *Reapportionment in the Seventies* (1973) and *The Book of the States, 1976-77.*

[43] 42 U.S.C.A. 1971, 1973.

[44] Ga. Code Ann. sec. 89-724. Also see Ga. Code Ann. sec. 47-107. While the 1945 Constitution stipulates that legislators receive a $10 per diem, plus an additional $5 daily maintenance expense (art. III, sec. IX, par. I), it also authorizes the General Assembly to change the salaries of all elective officers (art. III, sec. XI, par. I).

The President of the Senate—the Lieutenant Governor—receives an annual salary of $25,000.[47] He receives no additional compensation, though during sessions he also receives the standard daily expense allowance of $36, plus reimbursement for actual transportation costs while traveling by public carrier or twelve cents per mile for use of a personal automobile.[48]

The Secretary of the Senate and Clerk of the House receive such salary, expenses, and allowances as provided by resolution of their respective houses.[49] Housekeeping resolutions by both houses in 1975 set these salaries at $20,000 annually and stipulated that the Secretary and Clerk are entitled to the same expense, mileage, and travel allowance as legislators for each day of official services.

EXPENSE ALLOWANCES

Legislators are entitled to an expense allowance of $36 per day to cover food, lodging, and other expenses for

(1) each official legislative day of a regular or extraordinary session (which can include Saturdays and Sundays, unless both houses have adjourned by joint resolution for a weekend);

(2) each day's service as a member of an interim com-

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[45] Ga. Code Ann. sec. 47-107. These amounts are set in the "housekeeping resolution" adopted by each house at the beginning of a biennium.

[46] *Ibid.*, sec. 89-723.

[47] *Ibid.*, sec. 89-724.

[48] *Ibid.*, sec. 89-725 and sec. 40-2002.

[49] *Ibid.*, sec. 47-211.

mittee created by, or pursuant to, a resolution of one or both houses; and

(3) each day's service as a member of a statutory or constitutional board, commission, or other agency.[50]

During formally-invoked adjournments–including the customary budget recess–legislators are not entitled to the expense allowance unless involved in committee work under provision two above.

For performing official duties out of state, legislators receive actual expenses (e.g., food, lodging, taxis, etc.) as an expense allowance–in lieu of the $36 daily rate–plus travel expenses outlined below.[51] Members are also reimbursed for any conference or meeting registration fees incurred as legislators, whether in or out of state.[52]

MILEAGE AND TRAVEL ALLOWANCE

Each member of the General Assembly is provided a mileage allowance of twelve cents per mile for one round-trip each week, or portion of a week, during a regular or special session. The mileage is calculated between his home and the State Capitol "by the most practical route."[53]

For authorized interim legislative work, a member may receive a mileage allowance of either twelve cents per mile or actual transportation costs if traveling by air, bus, or other public carrier.[54] The travel allowance for out-of-state travel on official business is the same, except that reimbursements can be made on rental vehicle costs.[55]

EXPENSE AND TRAVEL VOUCHERS

As noted above, during a regular or special session, legislators are automatically paid the daily $36 expense allowance and the round-trip mileage allowance to their home city once a week.

For any other expense, mileage, or travel reimbursements, a legislator must sign and submit a voucher to the Legislative Fiscal Officer

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50. Ga. Code Ann. sec. 47-107.
51. *Ibid.*
52. *Ibid.*
53. *Ibid.*
54. *Ibid.*
55. *Ibid.*

certifying (1) that he has personally performed the service and personally incurred the expense for mileage and travel covered by the voucher, and (2) that the information contained on the voucher is correct and true.[56] Penalties for knowing and willful submission of false information on a voucher by a legislator include a fine of not more than $1,000, imprisonment of not less than one nor more than five years, or both.[57]

At least once every two months, the House Journals Committee and a special audit subcommittee designated by the Senate Rules Committee must examine and review legislative expenditures, including all vouchers submitted by members of their respective houses.[58]

SICKNESS AND DEATH

If, after leaving home to attend a session of the General Assembly, a member becomes unable to participate in his legislative duties because of sickness of himself or family, or if he is granted leave by his legislative house, he is entitled to the same daily expense allowance as attending members.[59] Additionally, regardless of when the sickness occurs or how long it lasts, a legislator continues to receive the salary of his office as long as he holds it—even if forced to miss part or all of a session.

Should a member die during a session, or afterwards, without having received all or any part of his daily expense allowance, the amount due for the entire session (minus any portion already paid) is paid to his widow, or if there is no widow, as provided by statute.[60] Monthly payments of a legislator's salary, of course, stop with his death or resignation.

LIMITATIONS

No provision is made for either a franking privilege or a postage allowance, and the cost of mailing to constituents or other legislators must be borne by each member of the General Assembly. Nor is any provision made for a telephone allowance, though during sessions several telephones connected with the state's GIST communication network are available for use by legislators.

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[56] *Ibid.*

[57] *Ibid.*

[58] *Ibid.*

[59] *Ibid.*, sec. 47-108.

[60] *Ibid.*, sec. 47-109.

Georgia law provides that no member of the General Assembly may receive any compensation, salary, per diem, expenses, allowances, mileage, costs, or any other remuneration of any type for service as a legislator other than that outlined in the preceding sections.[61]

RETIREMENT AND INSURANCE BENEFITS

Although no special fringe benefits are provided for legislators, they are generally entitled to participate in the retirement and insurance programs available to state employees.

HEALTH INSURANCE

Legislators and the administrative and clerical personnel of the General Assembly, and their dependents, are authorized to participate in a group health insurance plan for state employees.[62] Administration of this plan is vested in the State Merit System. Payments into the health insurance fund are made by both employer and employee, with the Legislative Fiscal Officer making employer payments for all legislators and legislative personnel.

RETIREMENT

In 1967 the Georgia Legislative Retirement System was established to provide retirement benefits for legislators, the Secretary of the Senate, and the Clerk of the House.[63] For those members who qualified as of July 1, 1967, prior service coverage to December 31, 1953, was made available by that member contributing 6 percent of his annual base pay and allowances received during those years.

In 1971 the State Employees' Retirement System (ERS) was extended to cover members of the General Assembly, and members of the Legislative Retirement System (LRS) became members of the ERS, subject to the conditions and provisions of Code Chapter 40-25 (State Employees' Retirement System) except where Chapter 40-25 might conflict with Code Chapter 47-14 (Legislative Retirement System). Since

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[61] *Ibid.*, sec. 47-107 and sec. 89-723.

[62] *Ibid.*, chap. 89-12.

[63] *Ibid.*, chap. 47-14.

1971, all new members of the legislature are covered by ERS rather than LRS.

All full-time legislative staff employees, in addition to legislators, are now covered by ERS, and participation in the retirement system is mandatory.

Legislators who were members of LRS prior to May 1, 1971, may retire at age sixty-two with eight years of membership service (or at age sixty-five with eight years of *creditable* service) and receive a monthly retirement allowance equal to $10 multiplied by the number of years of service.[64] For legislators who became members of the General Assembly after May 1, 1971, the normal retirement age is sixty-five with ten years of membership service.[65] Under both retirement systems, optional retirement at age sixty with reduced benefits is available.[66]

OFFICE SPACE, CLERICAL ASSISTANCE, AND PARKING

Office Space: The General Assembly and other components of the legislative branch are currently housed in the State Capitol building in Atlanta, utilizing most of the third and fourth floors, along with portions of the first. In Georgia, unlike some states, General Assembly members are not provided with individual office space, although desks are made available to Senators on the lower level of the Capitol during a session. Individual offices are also provided for the President and President Pro Tempore of the Senate, the Speaker and Speaker Pro Tempore of the House, and the Majority Leaders, Minority Leaders, and Administration Floor Leaders of both houses.

Committee Space: Neither house provides all of its committee chairmen with individual offices, nor does either house provide individual rooms for each standing committee. In the Senate, each chairman is at least given an individual desk, while the House assigns each committee a meeting room (usually shared with another committee).

Clerical Assistance: While the General Assembly is in session, typists are available in the Capitol on a pool basis for the general use of members and committees. Legislative leaders are provided with individual secretarial and clerical help.

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[64] *Ibid.*, sec. 47-1406. For distinctions between "membership service" and "creditable service," see Ga. Code Ann. sec. 47-1401 and sec. 40-2501.

[65] *Ibid.*, sec. 40-2505.

[66] *Ibid.*, sec. 47-1406.

Parking: For members of the legislative branch, the reserved parking spaces immediately adjacent to the Capitol building are only available to the Speaker of the House and the Lieutenant Governor. Other legislators can use the reserved parking spaces at the lot immediately across the street from the Capitol operated by the Georgia Building Authority. The cost of these spaces, currently set at $10 for the session, is not reimbursable by the state under Georgia law. Between sessions, legislators attending to business at the Capitol can utilize any of the parking lots maintained by the Building Authority at the existing daily parking rates.

PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE GENERAL ASSEMBLY

A number of rules exist regarding the privileges and immunities enjoyed by members of the General Assembly of Georgia.

From Arrest: The Constitution of Georgia establishes an immunity for members of its General Assembly in providing that they shall be free from arrest while attending, going to, or returning from meetings of the legislature, except for treason, felony, larceny, or breach of the peace.[67]

In Court Proceedings: Members are also granted certain immunities in relation to court proceedings which occur while they are attending sessions of the General Assembly. Any legislator summoned to serve as a witness or a juror in a case is excused from the service while he is attending a session of the General Assembly.[68] In all civil cases, either party has the right to take interrogatories, as provided by law, of any legislator needed as a witness in the case, when the times for the legislative session and the court session conflict.[69]

In all criminal cases, the presiding judge must, on motion of either the state or the defendant, "continue" (postpone) the case when it appears that a material witness is absent from the court by reason of his

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67. Ga. Const. art. III, sec. VII, par. III.
68. Ga. Code Ann. sec. 81-1407 and 59-113.
69. *Ibid.*, sec. 81-1407.

attendance upon the General Assembly.[70] Further, it is the duty of a judge in a trial court to continue any case, civil or criminal, when any party or his attorney is absent from court by reason of his attending, as a member, a session of the General Assembly. When several attorneys are involved in one case, this continuance is granted only on a showing that the absent counsel is necessary or desirable for the proper handling of the case. The right of continuance may be waived by the party or attorney who is present in court announcing that he is ready for trial when the case is called.[71]

Freedom of Speech: No member is liable to answer in any other place for anything spoken in debate in either house.[72] This would seem to mean that no Senator or Representative can be sued for libel or slander for remarks uttered on the floor of the General Assembly. According to past practices, immunity from suit apparently is also recognized for anything said in committee sessions. The House or Senate, of course, may discipline one of its own members for his utterances, even to the point of permanently expelling him from membership if it so desires.

ABUSES OF GOVERNMENTAL OFFICE

A number of criminal provisions in Georgia law apply to members of the General Assembly, as well as to other public officers and employees of the state.

Bribery: Bribery is committed when someone gives anything of value, or offers to do so, to any person acting in behalf of the state for purposes of influencing that person in the performance of any act related to the functions of his office.[73] A legislator commits bribery when, acting for or on behalf of the state, he solicits or receives any benefit, reward, or consideration to which he is not entitled.[74]

Extortion: Extortion is committed when a public officer unlawfully takes, under color of his office, from any person, any money or thing of value that is either not due to him or is more than is due.[75]

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[70] *Ibid.*, sec. 27-2003.
[71] *Ibid.*, sec. 81-1402.
[72] Ga. Const. art. III, sec. VII, par. III.
[73] Ga. Code Ann. sec. 26-2301 (1).
[74] *Ibid.*, sec. 26-2301 (2).
[75] *Ibid.*, sec. 89-9909.

Conspiracy to Defraud: A legislator commits conspiracy to defraud when he agrees with another to steal any property which belongs to the state or which is under his control or possession in his official capacity.[76]

Other Crimes: It is also a crime (with punishment including fine, imprisonment, and/or removal from office) for a legislator to:

(1) willfully and intentionally violate the terms of office;[77]

(2) ask for or receive anything of value to which not entitled in return for an agreement to procure or attempt to procure passage or defeat of any legislation, or procure or attempt to procure its approval or disapproval by the governor;[78]

(3) ask for or receive anything of value to which not entitled in return for an agreement to influence or attempt to influence official action by any other officer or employee of the state or any agency;[79]

(4) sell personal property to the state for himself or in behalf of others;[80]

(5) enter into a contract, combination, conspiracy in restraint of trade or free and open competition in any transaction with the state or any agency thereof, whether for goods, materials, or services;[81]

(6) willfully and knowingly submit a false expense, mileage, or travel voucher;[82]

(7) accept any fee, money, gift, or any other thing of value in connection with any claim presented to the Claims Advisory Board.[83]

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[76] *Ibid.*, sec. 26-2307(a).

[77] *Ibid.*, sec. 26-2302.

[78] *Ibid.*, sec. 26-2304(a).

[79] *Ibid.*, sec. 26-2305(a).

[80] *Ibid.*, sec. 26-2306(a).

[81] *Ibid.*, sec. 26-2308(a).

[82] *Ibid.*, sec. 47-107.

[83] *Ibid.*, sec. 47-9901.

Chapter III

Convening and Organizing

SESSIONS OF THE GENERAL ASSEMBLY

REGULAR SESSIONS

Members of Georgia's General Assembly are elected for two years, and the legislature is thus formally constituted as a biennial body, its first session occurring in each odd-numbered year. Sessions are annual, with the legislature convening on the second Monday in January. By concurrent resolution, the General Assembly may adjourn a regular session at any time and set a later time to reconvene, but in the aggregate a regular session may not extend more than forty days each year.[1]

Between 1963 and 1976, the Constitution provided for a split session in each odd-numbered year, whereby the legislature convened in January for no longer than twelve days, during which time it organized, began consideration of legislation, and received the governor's proposed appropriations bill. Thereafter, the General Assembly adjourned for a "budget recess" to study the appropriations bill. On the second Monday in February, it reconvened in regular session for no more than thirty-three additional days, permitting sessions of forty-five days in odd years.[2] In even years, there was no provision for a budget recess, and the regular session was limited to forty days.

This difference in session length traces to the practice of biennial appropriations acts (adopted in odd-numbered years) before a 1972 constitutional amendment formalized annual appropriations.[3] The forty-five day split session, however, was abandoned by the Constitution of 1976, and now all sessions extend for forty days in the aggregate.

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[1] Ga. Const. of 1976: art. III, sec. V, par. III.

[2] Ga. Const. of 1945: art. III, sec. IV, par. III.

Legislative sessions are measured by *calendar* days, including Saturdays and Sundays. House and Senate rules direct the daily convening of each body at 10:00 a.m., Sundays excepted, unless otherwise moved by the house.[4] Saturday sessions are thus not only possible, but in fact sometimes occur. By adjourning through concurrent resolution for a weekend or longer, it is possible to expand the session beyond a calendar-day calculation.[5]

Adjournment by Concurrent Resolution: Early in a session each house typically concludes legislative activity Friday afternoon and adjourns separately until Monday morning. In the absence of a concurrent resolution to formally stop the count of days, Saturdays and Sundays are counted against the total session length. As the legislative workload escalates later in the session, both houses will often agree through concurrent resolution to adjourn and stop the count of days over a weekend. Occasionally, particularly when a legislative impasse has arisen, a formal adjournment (usually from several days to a week or two) will be invoked.

Simple Adjournment: At the conclusion of legislative activities during a day—or at any time—either house may terminate or suspend their proceedings through a simple motion "to adjourn" or "to adjourn to a time definite." A motion to adjourn—which takes precedence over all other motions in either house—terminates proceedings for that day, with reconvening at 10:00 a.m. the next morning.[6] A motion "to adjourn to a time definite" is proper if the desire is to suspend proceedings until a later time during the same day, to terminate proceedings but provide for reconvening at a time other than 10:00 a.m. the next day, to adjourn over the weekend, or to adjourn for not more than three days.

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3. In practice, the General Assembly was appropriating annually before the 1972 amendment, passing a biennial budget in odd years, and amending that budget in even years.

4. House Rule 47; Senate Rule 46; Ga. Code Ann. sec. 47-103.

5. A comparison of the time and length of regular sessions among the fifty state legislatures shows that Georgia is one of thirty-six states which currently have constitutionally-mandated annual sessions, with six additional states now meeting on an annual basis through discretionary authorization to reconvene at intervals during a biennium. January is by far the prevailing month for convening regular sessions. Length of regular sessions ranges from a low of twenty legislative days, to no restriction at all in almost one-third of the states, while six others have procedures for extending sessions for indefinite periods by special vote of both houses. See *Book of the States*, 1976-77, pp. 33, 58-62.

6. House Rule 48, 75, 80-87; Senate Rule 47, 67, 73-78.

It should be noted that these motions—unless jointly undertaken through concurrent resolution—do *not* have the effect of suspending the count of days authorized for a session.

The Constitution prohibits either house, however, from adjourning for more than three days, or to any other place, without the approval of the other house.[7]

In any case of disagreement between the two houses on a question of adjournment, the governor is authorized to adjourn either or both of them.[8]

Adjournment Sine Die: At the conclusion of a session, the final adjournment is accomplished through a motion for *adjournment sine die*, since no day for reconvening is set. Traditionally, the doors to both chambers are opened and the final adjournment occurs simultaneously in both houses.

Carry-over Legislation: The Constitution provides that all business pending in either house when the first session of a biennium is adjourned may be carried over to the second session of the same General Assembly, and be considered at whatever point the measure had progressed at the close of the previous session.[9] But all bills and resolutions (or other business) pending at the adjournment of the second regular session of the biennium die and cannot be carried over to the newly-elected legislature that meets the following January, unless, of course, this business is again introduced and routed through the proper channels.

EXTRAORDINARY SESSIONS

The governor has the power to convoke the legislature in extraordinary (or "special") sessions.[10] When he does so, however, no laws may be enacted at that session except those which relate to the objective stated in his proclamation convening the two houses.[11] In construing this extraordinary session requirement, the Supreme Court of Georgia has been fairly permissive. It has held that the governor's exercise of discretion in determining when to call such a session is not reviewable by the judiciary, and that there is no limit upon the number of objectives which may be included within his proclamation.[12] The court has further indicated that it will not decide the question of whether a particular law relates to the governor's call in the abstract, but will examine his entire proclamation in each case.[13] (Finally, the court has emphasized that in Georgia, unlike some of the other states, the governor is not required to specify the objectives within his call of an extraordinary session.)[14]

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[7] Ga. Const. art. III, sec. VII, par. XXII.

[8] *Ibid.*

[9] Ga. Const. art. III, sec. IV, par. III.

[10] Ga. Const. art. V, sec. I, par. XII; Ga. Code Ann. sec. 2-3012.

[11] *Ibid.*

On the other hand, legislators should be aware that statutes have been held invalid when the court thought it clear they did not meet this requirement. For example, a statute purporting to require the equipping of automobiles with brakes, horns, headlights, and the like, and regulating the speed at which drivers could approach bridges, was held not to relate to the governor's call of an extraordinary session for the purpose of amending the automobile license tax.[15]

These extraordinary sessions called by the governor cannot continue longer than seventy days unless, at the end of that period, an impeachment trial is pending; in which case, the General Assembly may remain in session to complete this trial.[16]

Since 1900, twenty-one separate special sessions have been convened of the General Assembly, the most recent being those held in 1975, 1971, 1969, 1964, and 1962.[17]

Self-Convening Sessions: A constitutional amendment was proposed and ratified in 1937 to allow the legislature to convene itself in special session. This action resulted from the refusal of the governor to call a special session of the General Assembly after the regular session had failed to pass an appropriations bill for the state. The amendment provided that if a legislature presents a petition certified by three-fifths of the members of each house, stating that in their opinion an emergency exists in the affairs of the state, the governor must convene the General Assembly within five days.[18] If he refuses, the legislature may convene itself. This self-convened session is limited to a period of thirty days, unless an impeachment trial is pending.[19] Incidentally, only once–in 1945–has the legislature used this authority to convoke itself in special session.

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[12] *Bunger v. State*, 146 Ga. 672, 92 S.E. 72 (1917).

[13] *Carroll v. Wright*, 131 Ga. 728, 63 S.E. 260 (1908).

[14] *Mayes v. Daniel*, 186 Ga. 345, 198 S.E. 535 (1938).

[15] *Bibb County v. Williams*, 152 Ga. 489, 110 S.E. 273 (1921).

[16] Ga. Const. art. V, sec. I, par. XII; Ga. Code Ann. sec. 2-3012.

[17] *Georgia Official and Statistical Register, 1973-74* (Atlanta: State of Georgia, 1975), pp. 546-548.

[18] Ga. Const. art. V, sec. I, par. XII; Ga. Code Ann. sec. 47-113–47-119.

EMERGENCY SESSIONS

In the event of actual enemy attack upon Georgia, the legislature may meet in an emergency session.[20] The emergency meeting would be held at the new location of state government to be designated by the governor. It could take place either upon the call of the governor, or, if no call is issued, by initiative of the legislators themselves on the ninetieth day following the attack. At this emergency meeting, the General Assembly is not controlled by constitutional limitations upon length of sessions, and it can suspend operations of constitutional rules governing the procedures of both houses.

ORGANIZING THE TWO HOUSES

On the second Monday in January of odd-numbered years, when the newly-elected members of the General Assembly gather to begin the regular session, the first task is organization of the two houses. The hour of meeting is 10:00 a.m., and the place is the State Capitol.[21]

Organizing Officials: Statutes provide that the task of organizing the two houses is to be performed by the Secretary of the Senate and the Clerk in the House of Representatives.[22] These two officials are probably designated because they are generally regarded as more permanent in nature than any other officers in either house. In actual practice, however, the Lieutenant Governor, as President of the Senate, presides and calls the Senate to order, while the Clerk of the previous House of Representatives presides there until a Speaker is elected. In the absence of the organizing officers in either of the houses, that body may appoint a chairman with the same organization powers and duties.[23]

Oath: Before taking his seat, each Senator and Representative must take the following oath or affirmation:

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19. *Ibid.*
20. Ga. Code Ann. sec. 86-1824–86-1826.
21. *Ibid.*, sec. 47-103.
22. *Ibid.*, sec. 47-104.
23. *Ibid.*

> I do hereby solemnly swear or affirm that I will support the Constitution of this State and of the United States, and on all questions and measures which may come before me, I will so conduct myself, as will, in my judgment, be most conducive to the interests and prosperity of this State.
>
> I further swear or affirm that I am not the holder of any public money due this State, unaccounted for, that I am not the holder of any office of trust under the government of the United States, nor of any one of the several States, nor of any foreign state, that I am otherwise qualified to hold said office according to the Constitution and laws of Georgia and that I am not a member of the Communist Party.[24]

This oath may be administered to the legislators by any justice of the supreme court, judge of the court of appeals, or judge of a superior court. Arrangements for the justice or judge are made by the officer organizing each branch.[25] The members are usually sworn in in groups, rather than in mass.

Assignment of Seats: Assignment of seats to members in the House is the express duty of the Speaker, although House rules provide that Representatives during the last preceding regular session may sit in the seats which they occupied at that time.[26] In the Senate, choice of seats goes first to the President Pro Tempore, majority leader, minority leader, majority whip, administration floor leader, and assistant floor leader, in that order, with all other Senators seated by district number in ascending numerical order beginning with the lowest permanently-numbered available seat.[27]

Contested Elections: The State Constitution empowers each house to be judge of the election, returns, and qualifications of its members.[28] That the power of the two houses to judge the qualifications and eligibility of their members is exclusive has been emphasized by the appellate courts of Georgia.[29] Both the supreme court and court of appeals

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24. This oath is a composite of the oath required by art. III, sec. IV, par. V of the Georgia Constitution, as well as the oaths required by Georgia law in Ga. Code Ann. sec. 89-302 and sec. 89-311–89-313.

25. Ga. Code Ann. sec. 47-105.

26. House Rule 6.

27. Senate Rule 8.

28. Ga. Const. art. III, sec. VII, par. I; Ga. Code Ann. sec. 2-1901.

29. See *Rainey v. Taylor*, 166 Ga. 476, 143 S.E. 383 (1928); *Fowler v. Bostick*, 99 Ga. App. 428, 108 S.E. 2d 720 (1950); *Beatty v. Myrick*, 218 Ga. 629, 129 S.E. 2d

have refused to take jurisdiction of controversies presenting the question.

The Georgia Election Code of 1964, as amended, provides an extensive procedure for contesting a primary or general election.[30] Jurisdiction is lodged in a superior court to hear the contest. The proceeding is begun by filing a petition with the clerk of the superior court having jurisdiction, which is established by statute. After notice to the defendant, the hearing is held by the court without a jury, unless a jury is requested, and/or the matter for determination is an issue which can be, under the law, determined by a jury. After appropriate hearing, the court can declare that qualified candidate who received the requisite number of votes as nominated, elected, or as eligible to compete in a runoff primary or election. The clerk must then certify such determination to the proper authority.

The superior court also has jurisdiction in cases involving ineligibility for nomination or office sought, and may pronounce judgment declaring the primary or election invalid and require a second primary or election.[31] As in other civil cases, an appeal may be taken within ten days from rendition of judgment to the supreme court or court of appeals.[32]

ELECTION OF OFFICERS IN THE TWO HOUSES AND THEIR POWERS AND DUTIES

After the members have been sworn and have taken their seats, the houses of the General Assembly elect their respective officers for the session.

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764 (1963). See, however, *Bond v. Floyd*, 251 Federal Supplement 333 (1966) reversed by U.S. Supreme Court, 385 U.S. 166, 17 L. Ed 2d 235, where the U.S. Supreme Court affirmed that even though a state constitution may declare that each house of the state legislature shall be the judge of the election and qualifications of its own members, such provision does not deprive federal courts of jurisdiction where a legislature's action or decision as to the qualifications of a member involves substantial federally-protected rights. See also *Powell v. McCormack*, 395 U.S. 486 (1969).

[30] Ga. Code Ann. chap. 34-17.

[31] *Ibid.*, sec. 34-1703. It should be noted, however, that each house of the General Assembly also has this power, as previously cited, by virtue of the State Constitution. It is reported that contested elections for the General Assembly are variously dealt with by the appropriate house or by the courts, depending on the grounds upon which the election is being challenged.

[32] *Ibid.*, sec. 34-1709.

The Constitution of Georgia provides for a Speaker, a Speaker Pro Tempore, and a Clerk in the House of Representatives, and for a President, a President Pro Tempore, and a Secretary in the Senate, plus such assistants as each house may provide for.[33] Not all these officers, of course, are members of the two houses.

Elected officers of each house are formally selected by voice vote in each house at the first session following election of a new General Assembly.[34] As a practical matter, however, the Speaker, Speaker Pro Tempore, and President Pro Tempore are selected at caucuses of House and Senate Democrats prior to the session.

PRESIDENT OF THE SENATE

The Lieutenant Governor is ex officio presiding officer of the Senate, and in this capacity is designated President.[35] Once the Senate is in session, the President assumes various and important powers, duties, and responsibilities. With the President Pro Tem and Majority Leader, he serves as a *Committee on Committees* for appointing new members, reassigning members who so request, and designating officers to all standing committees and subcommittees in the Senate.[36] He refers any bill or resolution introduced in the Senate, or sent from the House, to the proper standing committee without debate, unless otherwise ordered by the Senate.[37] Also, should the Senate authorize a conference committee with the House, Senate members to that joint committee are appointed by the Lieutenant Governor.[38]

The President has full power of recognition to decide which Senator has the right to the floor.[39] He may suspend irrelevant debate in the Senate chamber and command silence whenever he deems it necessary.[40] Further, he has the power to order the galleries and lobbies of the Senate cleared, and to have persons guilty of disorderly conduct there brought before the Senate to be dealt with for contempt.[41]

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[33] Ga. Const. art. III, sec. VIII, par. I; Ga. Code Ann. sec. 2-3007.

[34] House Rule 4, 9, 17.

[35] Ga. Const. art. V, sec. I, par. VII.

[36] Senate Rule 30 and 190. Prior to 1975, the Lieutenant Governor had sole discretion to assign members and designate officers of standing committees and subcommittees in the Senate, additionally serving as an ex officio member of all committees (though voting on the Rules Committee only). At the 1975 session, the Senate adopted a number of rule changes affecting the Lieutenant Governor, including (1) establishing a Committee on Committees (on which he serves) to name all members and officers of committees; (2) providing that a Senator, once appointed to a standing committee, cannot be removed as long as he is a member of the Senate, unless he so requests; (3) removing the Lieutenant Governor from ex officio membership on committees; and (4) revoking the rule allowing him to vote in cases of ties and other instances.

[37] Senate Rule 120.

[38] Senate Rule 161.

He may order the doors of the Senate closed and the roll called in order to determine whether there is a quorum of its members present, and he may compel the attendance of Senators in order to keep or obtain a quorum.[42]

All questions on priority of business to be acted upon by the Senate are decided by the President without debate, unless otherwise provided by Senate rules.[43] He may rule out amendments not germane to the measure before the Senate,[44] and may order a roll call vote on any matter before it.[45] In addition, the President signs all acts and resolutions passed by the Senate, as well as all writs, warrants, and subpoenas issued by its order.[46]

During a day's session, the President may name any Senator to perform the duties of the chair during any part of that day's session, but for no longer.[47]

SPEAKER OF THE HOUSE

While a non-Senator (the Lieutenant Governor) serves as President of the Senate, the presiding officer in the House (styled "Speaker of the House") is a member of that body, nominated and elected by the entire membership. From this distinction derive the several differences in the powers of the two presiding officers, though both generally possess similar powers and duties over their respective chambers.

The Speaker of the House has full power to recognize which Representative will be accorded the right to the floor,[48] to suspend irrelevant debate and command silence,[49] and to call to order any member violating the rules of the House (in which event the offending member must immediately sit down).[50] Additionally, the Speaker may compel the attendance of members to keep or obtain a quorum, and if necessary, order the arrest of absentees by the sergeant-at-arms.[51]

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[39] Senate Rule 25.

[40] Senate Rule 26.

[41] Senate Rule 31.

[42] Senate Rule 52, 175.

[43] Senate Rule 24.

[44] Senate Rule 146, 157.

[45] Senate Rule 27, 176.

[46] Senate Rule 106.

[47] Senate Rule 28.

[48] House Rule 26.

All questions on the priority of business before the House are decided by the Speaker,[52] who is also customarily authorized by the Rules Committee to call bills and resolutions on the rules calendar in any order which he may desire during the last twenty-one days of a session. The Speaker may rule amendments out of order if he does not consider them germane to the subject under consideration,[53] and order a roll call vote at any time on any question, unless otherwise ordered by the House.[54]

Another power expressly delegated to the Speaker is that of determining which persons are to be allowed to sit in the House gallery. No person can enter the gallery without displaying an appropriate card, issued by the Speaker, to the doorkeeper.[55] If necessary, the Speaker may clear the galleries and lobbies and order the sergeant-at-arms to arrest any person for disturbance or misconduct, directing that such person be brought before the House for contempt.[56]

Like his counterpart in the Senate, the Speaker refers all bills and resolutions introduced in the House, or sent from the Senate, to the proper standing committee without debate, unless otherwise ordered by the House.[57] He is required to sign all acts and joint resolutions passed by the House, as well as any writs, warrants, and subpoenas ordered by that body.[58]

The Speaker also appoints House members to conference committees.[59] Should the House resolve itself into the Committee of the Whole, he appoints a chairman to preside, but, in contrast to the President of the

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[49] House Rule 27.

[50] House Rule 58.

[51] House Rule 55.

[52] House Rule 25.

[53] House Rule 162, 172.

[54] House Rule 28.

[55] House Rule 33.

[56] House Rule 32.

[57] House Rule 135.

[58] House Rule 119.

[59] House Rule 176.

Senate's role, the Speaker may take part in the proceedings and must vote, unless excused.[60]

In addition, the Speaker exercises several important powers no longer designated to the Lieutenant Governor in the Senate. For example, the assignment of new Representatives to standing committees and seating locations in the House is at the Speaker's discretion.[61] He also appoints all subcommittees, as well as officers for standing committees and subcommittees.[62] Although only possessing a vote on the Rules Committee, he serves as an ex officio member of all standing committees.[63]

Unlike the Lieutenant Governor, who cannot vote in any Senate proceedings, the Speaker can vote in four instances: (1) when the House is equally divided; (2) when a fixed constitutional vote is required to pass some bill or measure, and one more vote is needed for passage; (3) when his vote, if given to the minority, would make an equal division of the House on a particular question, thereby defeating it; and (4) when the House is conducting an election.[64] Also, as previously noted, the Speaker may vote when the House is acting as a Committee of the Whole.[65]

During a day's session, the Speaker may name any Representative to perform the duties of the chair for any part of that day's session, but for no longer.[66]

SPEAKER PRO TEMPORE AND PRESIDENT PRO TEMPORE

Each house elects a member of that body to preside in the absence of the Speaker or President. Termed the President Pro Tempore in the Senate, and the Speaker Pro Tempore in the House, these two officers have the same powers as the President and Speaker, respectively, and perform their duties in their absences. Needless to say, at any time these offices can become ones of considerable responsibility.

[60] House Rule 143, 148.
[61] House Rule 6, 31, 209.
[62] House Rule 31, 209.
[63] House Rule 209.
[64] House Rule 24.
[65] House Rule 148.
[66] House Rule 29.

CLERK OF THE HOUSE AND SECRETARY OF THE SENATE

The Clerk and Secretary are the chief ministerial officers for their houses, serving as full-time officers with responsibility for many important functions during and between sessions. Despite the difference in titles, they have similar duties, contributing much to the orderly process of business in their respective houses.

Any bill or resolution introduced in the General Assembly must be filed through their offices, where it is assigned a number and printed in multiple copies for distribution to members of both houses, and, upon request, to the public. The Secretary and Clerk prepare other materials vital to the legislative process including the daily and composite status sheets, the general calendars, and first readers.

In each house, these officers see that bills are read three times, tally all votes, retain copies of all recorded votes, and function in effect as the chief on-the-spot parliamentarians, assisting the presiding officers, on request, with the procedural questions which arise. The Clerk and Secretary also must note in the journal the names of members absent when the roll is called, as well as members not voting when the yeas and nays (a recorded vote) are ordered on a question.[67]

All writs, warrants, and subpoenas issued by order of the House or Senate must be attested by the Clerk or Secretary. They must also certify all engrossed and enrolled copies of bills for their houses.[68]

Should the President and President Pro Tem both be absent in the Senate, or the Speaker and Speaker Pro Tem in the House, the Secretary or Clerk must call that body to order and preside until a temporary replacement can be elected.[69] When there is a joint meeting of both houses, the Secretary joins with the Clerk to perform the duties required at the meeting.[70]

Within ten days after a session adjourns, the Secretary and Clerk must file all papers and documents of their houses and deliver them to the Secretary of State. After each session, the Clerk and Secretary also oversee compilation of the *House* and *Senate Journals*, which constitute the official record of the session's legislative action.

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67. Senate Rule 53, 54; House Rule 56, 57.
68. Senate Rule 106; House Rule 119.
69. Senate Rule 29; House Rule 30.
70. Joint Resolution 7, 8, 9.

The Clerk and Secretary may select and appoint the assistants necessary to carry out all clerical work, including the clerks for special or standing committees allowed by the House and Senate.[71] The "housekeeping resolution" adopted by each house at the beginning of a biennium also authorizes the Secretary and Clerk to appoint and employ designated additional personnel. For each, these are commonly an assistant, a reading clerk, a *Journal* clerk, a calendar clerk, and other staff assistants.

The Clerk and Secretary, before entering into their duties, must take an oath to discharge their duties faithfully and to the best of their skill and knowledge.[72] Both must also post bond and security in the amount of $5,000, payable to the Governor and his successors in office and conditioned on the faithful discharge of their duties.

The courts seem to view the Secretary and Clerk as the chief staff officers of their respective houses, and generally answerable for their actions only to those bodies under their rules and regulations. Thus, the Georgia Court of Appeals has stated that these two officially owe no duty to citizens in general,[73] and the Georgia Supreme Court has held that a constitutional direction to the "General Assembly" that certain actions be taken, in itself, imposed no duty upon the Clerk or Secretary.[74]

DOORKEEPERS

Doorkeepers stand at the doors of the House and Senate chambers and galleries, seeing that unauthorized persons are not allowed entrance. They also aid in carrying out the orders of the presiding officers to clear the galleries and lobbies of either house,[75] and announce at the door any messages sent from the other house.[76]

MESSENGERS AND SERGEANT-AT-ARMS

Each house provides for a messenger to attend to the wants of those bodies while in session. Messengers aid in the enforcement of orders during a session and execute the demands of their houses from time to time.

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[71] Senate Rule 15, 17, 18, 19; House Rule 15, 16, 18, 19, 20.

[72] Senate Rule 12, 13; House Rule 10, 11, 12.

[73] *Richter v. Harris*, 62 Ga. App. 64 (1940).

[74] *Horrigan v. Rivers*, 183 Ga. 141 (1936).

[75] Senate Rule 16, 31; House Rule 17, 32.

[76] Senate Rule 43; House Rule 44.

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In the Senate, the messenger is ex officio sergeant-at-arms, and, on order of the President, he may arrest absent members and bring them before the Senate when their presence is necessary to constitute a quorum.[77]

House rules provide for a separate sergeant-at-arms. This office, formerly termed "sheriff," is responsible to the Speaker for (1) maintaining order in the House chamber, galleries, and anterooms; (2) assisting the messenger; and (3) on order of the Speaker, arresting absentees and bringing them before the House when necessary to secure a quorum.[78]

PAGES

Members of both houses are served by pages. On the desk of each legislator is a switch for use when he desires the services of a page. When the switch is pressed, a light flashes upon a board in the corridor, showing the available page which legislator needs his services. An enactment of the General Assembly commands that excused absences be granted by schools to students who serve as pages and that the days spent away from school be counted as present.[79]

By their rules, the Senate and House require pages to be at least twelve years of age. The rules of the Senate further provide that each Senator may name no more than ten pages during the session, and the lieutenant governor is allowed to name no more than two pages per day for each day in which the Senate is in session.[80] The rules of the House provide that each member is allowed a maximum of five "page days" during the session and may use these either on one or on separate legislative days. (A "page day" is the service of one page on one day.) The member must make a reservation for each page at least one week before his selected "page day."[81]

HOUSE AND SENATE PARTY ORGANIZATION

An informal party organization of both Democrats and Republicans exists in the House and Senate.

[77] Senate Rule 52, 53.

[78] House Rule 55, 56.

[79] Ga. Acts 1963, p. 254.

[80] Senate Rule 21; House Rule 22.

[81] House Rule 22.

Democratic Caucus: A Democratic Caucus was established in the House in 1967 and in the Senate in 1970. Both the House and the Senate consider all members who are elected as Democrats to their respective houses as eligible caucus members, even though participation is voluntary. The House Democratic Caucus meets within seven days, and the Senate Democratic Caucus convenes within fifteen days, after the general election.

In each house, the Democratic Caucus elects a caucus chairman, caucus vice-chairman, party leader, party whip, and caucus secretary to serve two-year terms. When Democrats are in the majority in the Senate or the House, the party leader and party whip of that house are designated the majority leader and majority whip. The Senate Democratic Caucus also elects a nominee for President Pro Tempore of its house. Likewise, the House Democratic Caucus elects a nominee for Speaker and Speaker Pro Tempore. The caucus rules of both houses provide that the administration floor leader and assistant administration floor leader are not eligible to hold any party or caucus leadership position. House and Senate Democratic Caucus members are honor-bound to support their caucus nominees in the election of the officers of their respective houses.

In addition to nominating house officers and electing party and caucus leaders, the Democratic Caucus rules in the House and Senate establish a permanent Policy Committee composed of the caucus nominees for house offices, party leaders, caucus leaders, and several caucus members. The Policy Committee considers legislative proposals and may recommend a party position. The party leader and party whip communicate to members the decisions of the Policy Committee and attempt to gain the legislative support of the caucus members in the particular house.

Republican Organization: The House and Senate Republican members also have a party organization in their respective houses which is much less formally structured. The Senate Republican members meet before the convening of the General Assembly following a general election. At this meeting, a Senate party leader is elected to serve a two-year term. Likewise, the House Republican members meet within two weeks after the general election and elect a party leader, party whip, caucus chairman, and secretary.

TABLE 4

SUMMARY OF HOUSE COMMITTEES WORKLOAD: 1972-76

Committee	1972	1973	1974	1975	1976
Agriculture and Consumer Affairs	19	7	23	34	22
Appropriations	73	65	53	49	92
Banks and Banking	45	33	41	41	37
Defense and Veterans Affairs	16	5	10	15	13
Education	63	43	63	36	48
Game, Fish and Recreation	28	21	19	22	28
Health and Ecology	44	47	95	67	80
Highways	28	23	39	31	28
Human Relations and Aging	32	33	35	9	9
Industrial Relations	27	13	21	13	14
Industry	71	63	65	70	60
Insurance	39	24	24	38	56
Interstate Cooperation	0	1	1	2	2
Journals	0	0	0	0	0
Judiciary	161	163	207	195	256
Legislative and Cong. Reapportionment	12	4	10	8	12
Local Legislation SPCA	636	667	661	583	551
Motor Vehicles	64	73	94	50	69
Natural Resources	31	24	28	17	13
Retirement	72	66	119	83	92
Rules	154	21	75	79	83
Special Judiciary	117	114	142	140	124
State Institutions and Property	73	60	71	72	99
State Planning and Community Affairs	40	47	61	48	83
State of Republic	61	52	105	115	119
Temperance	17	14	26	12	23
University System of Georgia	14	6	18	14	15
Ways and Means	114	101	173	128	177
TOTAL	2051	1810	2279	1971	2110

COMMITTEES IN THE TWO HOUSES

After the session officers have been elected, the next important step in organizing the two houses is the appointment of House and Senate members to their respective standing committees. The standing committees of both houses are established by House and Senate rules adopted at the beginning of each session.[82] It is through these committees that most of the work of the General Assembly is carried on.

Senate rules provide that a Committee on Committees appoint all standing committee members. House rules give this authority to the Speaker. It is interesting to note that in almost all state legislatures, the Speaker appoints House committee members, while practices in state senates are more varied.[83]

At present, there are nineteen standing committees provided for in the Senate rules and twenty-seven standing committees provided for in the House rules. Unlike the U.S. Congress, there is no requirement in either house of the General Assembly for minority party representation on each standing committee.

STANDING COMMITTEES

House: In the House of Representatives, the rules provide that the Speaker shall appoint the named standing committees.[84] The Speaker also appoints the chairman, vice-chairman, and secretary for all standing committees and for all subcommittees created by him.[85] The rules provide that the majority leader and the minority leader shall be members of the Rules Committee.[86] Each leader must be certified as such by his party caucus chairman to the Speaker and to the Clerk of the House.[87]

No member of the House may serve on less than two, or more than three, standing committees, with the exception of the Committee on

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82. The Interstate Cooperation Committee, a standing committee in each house, is provided for by statute (Ga. Code Ann. sec. 47-1101–47-1102), while the Economy, Reorganization and Efficiency in Government Committee in the Senate is provided for by joint resolution (Ga. Laws 1963, p. 486, as amended by Ga. Laws 1964, p. 744 and Ga. Laws 1975, p. 1327).

83. See *Book of the States 1976-77*, p. 63.

84. House Rule 209.

85. *Ibid.*

86. *Ibid.*

87. *Ibid.*

TABLE 5

SUMMARY OF SENATE COMMITTEES WORKLOAD: 1972-76

Committee	1972	1973	1974	1975	1976
Agriculture	16	13	21	13	20
Appropriations	100	70	49	32	33
Banking, Finance and Insurance	107	98	124	98	132
Business, Trade and Commerce	11	16	16	--	--
Consumer Affairs	--	--	--	15	25
County and Urban Affairs	631	518	605	552	537
Defense and Veterans Affairs	6	2	9	19	10
Economy, Reorg. and Efficiency in Govt.	127	108	148	56	70
Education	30	23	37	30	34
Health and Welfare	61	21	48	--	--
Higher Education	10	2	15	9	12
Human Resources	--	--	--	73	80
Industry, Labor and Tourism	42	26	25	31	30
Institutions and Mental Health	3	15	23	--	--
Interstate Cooperation	1	0	2	2	0
Judiciary	54	108	129	205	218
Natural Resources and Environ. Quality	24	30	30	36	28
Offender Rehabilitation	27	18	12	23	16
Public Utilities	57	33	57	43	46
Retirement	42	51	68	46	53
Rules	111	49	77	84	71
Science and Technology	--	--	0	--	--
Scientific Research	0	0	--	--	--
Senate Administrative Affairs	4	3	2	--	--
Special Judiciary	108	105	160	--	--
Temperance	10	7	23	--	--
Transportation	46	58	56	47	66
Vocational and Technical Education	1	2	1	--	--
TOTAL	1629	1376	1737	1414	1481

Interstate Cooperation.[88] The majority leader and the minority leader are, by rule, members of the Rules Committee and eligible to be appointed by the Speaker to two additional standing committees.[89]

Unlike the Senate rules, those of the House do not specify the number of Representatives to serve on each of the standing committees. During the 1976 session, the largest committee was Appropriations, with thirty-eight members, and the smallest was Interstate Cooperation, with five.

The chairman and vice-chairman of the Committee on Appropriations and the chairman and vice-chairman of the Committee on Ways and Means are ex-officio members of each other's committees.[90] The Speaker is an ex-officio member of all House standing committees, but has no vote except in the Committee on Rules.

After members have been appointed to the various standing committees and the appointments have been announced, no other members can be placed on them. An exception to this rule is provided for members elected to fill vacancies in the House of Representatives. The Speaker may also fill any vacancy in the offices of chairman, vice-chairman, or secretary of a committee.[91]

The standing rules of the House of Representatives expressly give the Speaker the power to create subcommittees and to appoint their chairmen, vice-chairmen, and secretaries.[92] In recent years a large number of subcommittees have been created, usually with five or six members each. During the 1976 session, for example, fifty-four subcommittees were created within the twenty-seven standing committees, and only eight standing committees operated without subcommittees.

Subcommittee actions are subject to review by parent standing committees, and no bill can be reported to the House until it has been acted upon by the full standing committee to which it was referred.[93]

Senate: Senate rules currently provide for nineteen standing committees and direct that their members be appointed by a *Committee on Committees*, consisting of the President of the Senate, President Pro

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[88] *Ibid.*

[89] *Ibid.*

[90] *Ibid.*

[91] House Rule 210.

[92] House Rule 209.

[93] House Rule 211.

TABLE 6

STANDING COMMITTEES IN THE GEORGIA HOUSE OF REPRESENTATIVES

Agriculture
Appropriations
Banks and Banking
Defense and Veterans Affairs
Education
Game, Fish and Recreation
Health and Ecology
Highways
Human Relations and Aging
Industrial Relations
Industry
Insurance
Interstate Cooperation
Journals
Judiciary
Legislative and Congressional Reapportionment
Motor Vehicles
Natural Resources
Retirement
Rules
Special Judiciary
State Institutions and Property
State Planning and Community Affairs
State of Republic
Temperance
University System of Georgia
Ways and Means

Tempore, and the Majority Party Leader.[94] This authority, however, does not extend to reassigning incumbent Senators, since a Senator, once appointed, cannot be removed from a standing committee as long as he remains a member of the Senate, except upon his request.[95] The Committee on Committees is further empowered to create, at its discretion, subcommittees within any standing committees, to appoint their members, and to designate the chairman, vice chairman, and secretary for each standing committee and subcommittee.[96] At the 1976 session, twenty-nine subcommittees were created within the nineteen standing committees, with a majority of these subcommittees consisting of three members.

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[94] Senate Rule 30 and 190.

[95] Senate Rule 190.

In contrast to the House, where the size of a committee is at the discretion of the Speaker, Senate rules specify the number of Senators to serve on each standing committee.[97] At present the size of a Senate committee ranges from five members on Interstate Cooperation to nineteen on Appropriations.

Each Senator is appointed to three standing committees, and no more, except that membership on the Rules and Interstate Cooperation Committees does not count against this limitation.[98] Additionally, a Senator is prohibited from serving as chairman or vice chairman of more than one committee.[99]

Like the House, Senate rules prohibit the placement of other members after the announcement of the standing committees has been made, except that the Committee on Committees may assign newly-elected members to committees with vacancies.[100] The President may also fill vacancies in committee offices of chairman, vice-chairman, and secretary.[101]

Committee Operations: The committee rules of both the Georgia House and Senate are adopted within each committee rather than being uniformly developed in each house. Thus, each committee makes its own rules as to how many members constitute a quorum for the purposes of meeting and transacting business.

Committee Seniority: The ranking status, or seniority, gained through continued service on a standing committee, is not recognized in the rules of either house of the General Assembly. Nor is it necessarily observed in practice, for, although notice may be taken of that committee member with longest tenure when selecting officers, neither the Speaker in the House nor the Senate Committee on Committees are bound by seniority or any other consideration in appointing committee chairmen and other officers. Furthermore, these assignments are not protected by

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[96] Senate Rule 30 and 190.

[97] Senate Rule 190; House Rule 31.

[98] Senate Rule 190.

[99] *Ibid.*

[100] Senate Rule 191.

[101] *Ibid.*

TABLE 7

STANDING COMMITTEES IN THE GEORGIA SENATE

Agriculture
Appropriations
Banking, Finance and Insurance
Consumer Affairs
County and Urban Affairs
Defense and Veterans Affairs
Economy, Reorganization and Efficiency in Government
Education
Higher Education
Human Resources
Industry, Labor and Tourism
Interstate Cooperation
Judiciary
Natural Resources and Environmental Quality
Offender Rehabilitation
Public Utilities
Retirement
Rules
Transportation

tenure, and committee officers must be reappointed every two years following election of a new General Assembly.

Though selection of committee officers is entirely within the discretion of the above-noted appointing authorities, committee *tenure* does protect members of standing committees in both houses from reassignment, except upon request.[102] House rules require that, except for the Committee on Interstate Cooperation and the Rules Committee, a member must remain on the committee to which he is appointed so long as he is a member of the House.[103] If a Representative desires reassignment, he may so request to the Speaker, and if a change can be accomplished, the

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[102] Prior to 1975, reapportionment of a Senator to a committee rested entirely upon the discretion of the President of the Senate. Rules changes adopted in 1975, however, extended to the Senate committee tenure provisions similar to those of the House.

[103] House Rule 31.

Speaker may do so. Senate rules simply provide that once a Senator is appointed to a standing committee, he may not be removed as long as he remains a member of the Senate, unless he requests reassignment.[104] The effect of this tenure system is that once a legislator is appointed to a standing committee, that assignment is secure so long as he remains a member with uninterrupted service in that house. Should a legislator resign or fail to win reelection, but later be elected to his former post, he apparently has no assurance of reassignment to his former committees.

JOINT COMMITTEES

Joint Standing Committees: These are not formally established in the rules of the Georgia House and Senate as in some state legislatures. Joint committees, composed of members of both houses, have the advantage of allowing committee work to be done for both houses at the same time. Some legislatures which do not utilize joint standing committees instruct standing committees of the two houses to attempt to work out joint hearings and meetings when possible.

The number of duplicate standing committees in the two houses of the Georgia General Assembly might make a system of joint standing committees effective here. At present, the Senate and House Appropriations Committees do hold joint hearings to consider the proposed budget and prepare the General Appropriations Bill for the next fiscal year. Occasionally, other committees hold joint hearings, thereby reducing the time involved in the committee refinement of legislation. The utilization of joint hearings has increased in the Georgia General Assembly, but has not been institutionalized.

Special or Interim Committees: These are created to undertake studies and investigate matters about which the legislature desires further information during the interim between sessions. They are appointed by motion or resolution of one or both houses. In addition, housekeeping resolutions of the House and Senate grant the presiding officers authority to create special or interim committees as needed. Thus, there are joint interim committees representing both houses created by joint resolution, and there are special committees of either the House or Senate. Upon completion of its task, a special or interim committee is dissolved.

Interim committees have no legislative power and cannot introduce legislation. In addition, the members of these committees are not

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104. Senate Rule 190.

necessarily on the related standing committees which would be assigned legislation later introduced. Thus, the legislative effectiveness of interim committees is limited, even though the use of such committees does permit the legislature to respond overtly to matters of public concern, and such committees may well provide valuable reports based upon serious committee investigation and study.

Recently, in both houses, there has been decreasing usage of the interim or special committee, and greater reliance on interim study of legislative matters by the appropriate standing committee.

OTHER TYPES OF COMMITTEES

In addition, several other types of committees are utilized by the legislature. The presiding officers of both houses may appoint *conference committees* to meet jointly and resolve differences between the two houses on a given piece of legislation. To facilitate deliberations, or upon occasion as required by House or Senate rules, each house may resolve itself into a *Committee of the Whole*, whereby the total membership sits in a body as a committee. To oversee operations of the General Assembly, a *Legislative Services Committee* has been established, consisting of the leadership from both houses, while a special *Fiscal Affairs Subcommittee* periodically sits to authorize budget transfers proposed by the governor.

Rules of one or both houses provide for several special-function committees, such as the Senate's *Decorum Committee* and *Committee on Committees*. Custom dictates others, such as *Committees of Escort*. Finally, in recent years, the General Assembly has begun establishing *"overview committees"* through joint resolutions to provide legislative review and evaluation of selected projects such as MARTA and the World Congress Center.[105]

These committees are discussed in subsequent sections, as well as the rules regarding the procedure which committees must follow in discharging their functions.

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105. The Georgia Supreme Court has ruled that a state authority overseeing construction of an undertaking such as the World Congress Center is performing an "executive function," and thus legislative membership on its governing board would be violative of the constitutional separation of powers prescription. *Greer v. Georgia*, 233 Ga. 667 (1975). To provide a measure of legislative review on this type of project, the General Assembly has created several legislative overview committees to periodically review the operations of the overseeing authority, to evaluate the success of the authority in accomplishing its statutory duties and functions, and to report their findings and recommendations at least annually back to the General Assembly.

CONTROL OF MEMBERS

SPEECH AND DEBATE

An important immunity granted members of the General Assembly by the Constitution is freedom of speech during debate in either house, and apparently no legislator can be sued for libel or slander for remarks uttered on the floor of the General Assembly.[106] However, there are a number of limitations on the speech of members which should be noted.

Disruptions: Members of both houses are required to refrain from private conversations and to preserve silence until a speaking member has finished his speech and taken his seat.[107] Although only the House has a specific rule, both houses prohibit applause or hisses in their chambers, galleries, or lobbies during any speech or legislative proceeding.[108] Additionally, members in both houses are forbidden from passing between the presiding officer and a member who is speaking.[109]

Obtaining Recognition to Speak: No member can address either house (except in the case of appeals in the House of Representatives) or question a member who is speaking, unless he does so through the presiding officer. To ask a question of a member speaking from the well, the proper procedure is generally to ask, through the presiding officer: "Will the gentleman (or Senator or Representative) yield for a question?" If the member speaking declines to be interrupted, no questions can be asked him.[110]

Addressing or Referring to Other Members: Though not always followed in practice, House and Senate rules prohibit a member from naming another when addressing or referring to his observations. Instead, members are required to refer to another member by title, citing the district which he represents or his position on the floor–saying, for example, "the Senator from the 44th District" or "the Representative in seat 22."[111]

Privileged Conversations: No Senator or Representative, when

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106. Ga. Const. art. III, sec. VII, par. III.
107. Senate Rule 62; House Rule 65.
108. House Rule 69.
109. Senate Rule 63; House Rule 66.
110. Senate Rule 58; House Rule 61.
111. Senate Rule 60; House Rule 63.

debating, can refer to any private conversation which he might have with another member of his own house.[112] Further, the House prohibits members from referring to matters occurring in any committee session, or to matters occurring in the Senate.[113]

Disparaging Remarks: When candidates are nominated for any office in the two houses, no member may make disparaging remarks concerning them.[114] Additionally, members recording protests in the journals with respect to some action taken by their house may not impugn the motive of that house or of any member.[115]

Length of Debate: No member of the House may debate any question from the floor for more than one hour, and a twenty-minute limit is imposed during the last two days of a session.[116] In the Senate, individual speeches are limited to thirty minutes.[117] Both houses allow for extending the limits for debate, with the House requiring two-thirds of a quorum and the Senate a majority of a quorum.[118] On points of personal privilege in the Senate, speeches are limited to ten minutes.[119]

"Questions of Privilege": In both houses, members are permitted to make certain statements as a matter of privilege. These statements, observations, or discussions are called "questions of privilege" and are divided into two classes:

(1) questions affecting the rights of the body collectively—its dignity, safety, and the integrity of its proceedings.
(2) questions affecting the conduct of members individually, but in their representative capacity only.

"Questions of privilege" have precedence over, and are considered before, all other questions in both bodies, except for a motion to adjourn in the House of Representatives.[120]

Protests: Should a member of the General Assembly disagree with the action taken by his house concerning any matter, he may have

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112. Senate Rule 59; House Rule 62.
113. House Rule 62.
114. Senate Rule 200; House Rule 216.
115. Senate Rule 66; House Rule 74.
116. House Rule 58.
117. Senate Rule 55.
118. House Rule 58; Senate Rule 55.
119. Senate Rule 55.
120. Senate Rule 44; House Rule 45.

entered a written protest against the action in the *Journal* of that house. The protest must clearly set forth his grounds of disagreement and may not impugn the motive of that house or of any member. House rules also require that the protest not be argumentative.[121]

Motions: In order to assure freedom of debate in both houses, no member may make more than one motion at a time; and while this motion is being put to the body, he must resume his seat unless again recognized.[122] The rules also provide that no member may speak on a question and then make a motion which would have the effect of cutting off debate, unless he first relinquishes the floor.[123]

OTHER CONTROLS

Certain other controls are exercised by each house over its own members.

Quorum: When the presiding officer has ordered the doors of the chamber closed in order to keep or secure a quorum, no member may depart without first obtaining leave from the body.[124] If necessary, the sergeant-at-arms, on order of the presiding officer, may seek out and arrest absentees and bring them before the body if necessary to secure a quorum.[125] In the event that a member is arrested and brought before the body, his house determines under what conditions he is to be discharged.[126]

Disorderly Behavior: Once a member has been called to order by the presiding officer of his house, that member must sit down immediately unless permitted to explain his actions. If the member appeals the order of the presiding officer to the house to which he belongs, that house decides whether the order was proper. If the member does not submit to the decision of the body then, he is reproved as punishment for the first offense and fined a sum not exceeding $10 for the second offense. If his misconduct continues, he may be expelled from the body by a two-thirds vote of the total membership. The vote must be taken by yeas and nays.[127]

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[121] Senate Rule 66; House Rule 74.

[122] Senate Rule 70; House Rule 78.

[123] Senate Rule 71; House Rule 79.

[124] Senate Rule 52; House Rule 55.

[125] Senate Rule 52; House Rule 55.

[126] Senate Rule 53; House Rule 56.

[127] Senate Rule 55; House Rule 58.

Intoxication: The House of Representatives has a specific rule forbidding members in an intoxicated condition from entering the floor and charges the messenger and doorkeepers (assisted by the sergeant-at-arms if necessary) with rigid enforcement of this rule.[128] Though there is no parallel rule in the Senate, it follows the same practice of not allowing intoxicated members on the floor of that body.

Voting: A Representative may not vote on any question if "immediately and particularly interested" in its result; a Senator, if "personally" interested.[129] The rules also provide that, whenever the seat of a member is being contested, both the sitting member and the contestant must retire from the body before the vote is taken.

Members may not abstain from voting or "pair" their votes, but both houses allow a member to be excused from voting on a particular question, if before that vote begins the member requests permission of that house to be excused, briefly stating the reasons why. No debate is permitted on his request, and the body decides whether to allow the excusal.[130]

Because of the extensive use of electrical voting, rules in both houses that prohibit any member or other person from voting in the place of another member on any question or proposition are of particular importance.[131] Designed to protect the integrity of the voting process, these rules apply not only to the practice of voting for an absent colleague, but apparently to the more innocuous practice occasionally observed during roll call votes, where a legislator not in his seat signals another legislator–usually a member in an adjacent seat–to press his voting switch in his behalf. Violation of the prohibition against voting in the place of another member is declared to be disorderly behavior, which is punishable by censure, fine, imprisonment, or expulsion.[132]

If a quorum is present and a member of either house refuses to vote on a measure, that refusal, unless excused by the body, is deemed a contempt of that house.[133]

Floor Privileges: The privilege of the floor is limited by each house. The rules of the House and Senate explicitly state who shall be allowed to enter upon the floor.

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[128] House Rule 68.

[129] Senate Rule 180; House Rule 195.

[130] Senate Rule 179; House Rule 194.

[131] Senate Rule 173; House Rule 197.

[132] *Ibid.* Senate Rule 56 and House Rule 59 provide for punishment in instances of disorderly behavior and misconduct.

[133] Senate Rule 175; House Rule 190.

In the Senate, no one may enter the floor except

(1) members (and their pages) and officers of the Senate;
(2) members and officers of the House;
(3) the Governor;
(4) staff members of the Secretary of the Senate, Clerk of the House, and the Office of Legislative Counsel;
(5) former Senators;
(6) such others as the Senate may allow upon recommendation of the Committee on Rules;
(7) representatives of the press, radio, and television, but only in the area at the rear of the chamber designated for them (though, in practice, photographers and cameramen are accorded reasonable freedom of movement through the chamber).[134]

The House excludes all persons from its floor except

(1) members (and their pages) and officers of the House;
(2) members and officers of the Senate;
(3) the Governor;
(4) staff members of the Office of Legislative Counsel;
(5) representatives of the press, telegraph and press associations, radio and television stations, and newsreel photographers (all of whom must have proper credentials);
(6) such other persons as the House may allow upon recommendations of its Rules Committee;
(7) spouses and children of House members (who cannot, however, be seated at the desk of any member).[135]

In past years it has been customary to invite former governors and visiting entertainers, political figures, and other persons to address the respective chambers while in session. This practice, however, has been curtailed through changes in House and Senate rules. In the Senate no such introduction may be made without written recommendation of a majority of the Decorum Committee, except that on the final reading and consideration of any bill appropriating money, the Senate may, by invitation of the Chairman of the Appropriations Committee or by vote of a majority of a quorum, allow persons on the floor to explain or answer any questions concerning the bill.[136] In the House, no non-member may be recognized to speak unless that person has been invited by resolution adopted on or before the previous day.[137]

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[134] Senate Rule 22.

[135] House Rule 23.

The withdrawal of the privilege of the floor of either house from persons engaged in lobbying will be discussed in a subsequent section. As previously noted, the House denies the right to enter upon its floor to any member who is intoxicated.[138]

Recognition of Visitors: In past years legislators have been able to request that the presiding officer, as a matter of courtesy, recognize school classes, church groups, members' wives, or other visitors in the galleries. While the practice is not emphatically forbidden, it has been greatly curtailed in recent years. In the Senate no such introduction may be made except upon written recommendation of a majority of the Decorum Committee.[139] In the House, except for presentation of the chaplain and doctor of the day, no member can be recognized for the purpose of introducing visitors in the gallery or on the floor. The prohibition also extends to the Speaker, "unless he deems their presence to be of such importance as to outweigh the value of continuing the business of the House.[140]

Adjournment: At the time of adjournment, all members are required to remain at their seats until the presiding officer has retired from the chamber.[141] It might be of interest to mention the adjournment custom of bowing in the House of Representatives, which is apparently practiced at a Speaker's discretion. According to custom, upon leaving the House chamber at time of adjournment, the Speaker must first come down upon the floor immediately in front of the rostrum and bow in each direction to members in the chamber. Upon doing so, he immediately leaves the chamber and other members can then depart.

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136. Senate Rule 22.

137. House Rule 23.

138. House Rule 68.

139. Senate Rule 22. The Decorum Committee is composed of the President of the Senate (chairman), the President Pro Tempore, the Majority Leader, the Minority Leader, and the Majority Whip.

140. House Rule 23.

141. *Ibid.*

ENFORCEMENT OF RULES OF CONDUCT

The rules of the two houses governing the conduct of their respective members seem to be followed in varying degrees in actual practice. And although seldom invoked, it is important to know that the Constitution gives each house the power to punish members for disorderly conduct or misconduct by censure, fine, imprisonment, or expulsion. No member, however, can be expelled except by a vote of two-thirds of the total membership of the house to which elected.[142]

LOBBYING

The statutes of Georgia provide:

> Lobbying is any personal solicitation of a member of the General Assembly, during a session thereof by private interview, or letter, or message, or other means, not addressed solely to the judgment, to favor or oppose, or to vote for or against any bill, resolution, report, or claim, pending, or to be introduced in either branch thereof, by any person who misrepresents the nature of his interest in the matter to such member, or who is employed for a consideration by a person or corporation interested in the passage or defeat of such bill, resolution, report or claim, for the purpose of procuring the passage or defeat thereof. But this shall not include such service as drafting petitions, bills, or resolutions, attending to the taking of testimony, collating facts, preparing arguments and memorials and submitting them orally, or in writing, to a committee or member of the General Assembly, and other services of like character, intended to reach the reason of the legislators.[143]

Lobbying is declared to be a crime by the Georgia Constitution,[144] and the statutes provide that it shall be punished by confinement in the penitentiary for not less than one nor more than five years.

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[142] Ga. Const. art. III, sec. VII, par. I; Ga. Code Ann. sec. 2-1901.

[143] Ga. Code Ann. sec. 47-1001.

[144] Ga. Const. art. I, sec. II, par. V. See also Ga. Code Ann. sec. 26-2301–26-2312 for penalties to state officers engaged in improper influencing of legislative action. The prohibition of lobbying dates to the 1877 Constitution of Georgia. For an interesting insight into how the framers of the 1945 Georgia Constitution perceived lobbying, and why a lobbying provision was retained in the 1945 Constitution, see Albert B. Saye (ed.), *Records of the Commission of 1943-44 to Revise the Constitution of Georgia*, Vol. I, 60-67, 82-86 (1946).

Examination of this definition indicates that "lobbying" is apparently narrowly defined under Georgia law, and that a wide range of activities to influence legislation is permissible. The key phrases spell out that "lobbying" (in the sense of being constitutionally prohibited) occurs when an agent personally tries to influence the vote of a legislator by means "not addressed solely to the judgment" (*e.g.*, bribery, coercion, etc.). Numerous permissible activities are outlined, which are commonly characterized as "lobbying." The statutes clearly note that activities "intended to reach the reason of the legislators" are permissible.

Registration: In fact, statutes provide that all persons employed by any person, firm, corporation, or association to aid or oppose, directly or indirectly, the enactment of bills or resolutions by either house of the General Assembly, must register in the Office of the Secretary of State by filing a statement in writing which discloses their employer and their purpose.[145] At this time, they must also pay to the Secretary of State a registration fee of $5.[146] Such registration is valid for only one regular or extraordinary session of the General Assembly. The docket which the Secretary of State provides for the registration of these persons is known as the "Docket of Legislative Appearance" and is open to public inspection.[147]

After registering a lobbyist, the Secretary of State gives him an identification card upon which is printed his name, the party he represents, and the words, "Registered Agent." The card must be presented to all legislators who request it of him. It is also the duty of the Secretary of State to report to the General Assembly the names of the persons he has registered and the parties they represent.[148] This list is subsequently published in the *Journal* for each house for that session. Since enactment of a 1970 statute expanding provisions for registration of lobbyists and requiring the $5 registration fee, the number of lobbyists registering with the Secretary of State has increased from 280 at the 1971 session to 391 in 1976.[149]

Regulations: No person, firm, corporation, or association may retain or employ an attorney-at-law or an agent to aid or oppose legislation for a compensation which is contingent, in whole or in part, upon the passage or defeat of any legislative measure.[150]

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[145] Ga. Code Ann. sec. 47-1002.

[146] *Ibid.*

[147] *Ibid.*

[148] *Ibid.*

[149] Names of lobbyists and organizations represented can be found in each year's House and Senate Journal.

It is further declared unlawful for any person registered as a lobbyist, or any other unauthorized person, to go upon the floor of either house of the General Assembly while it is in session to discuss privately measures then pending in the General Assembly.[151]

The rules of both houses specifically provide that no person who is engaged in lobbying or who is attempting to influence legislation can go upon the floor.[152]

Consequences: Some members of the General Assembly appear to think that a certain amount of "courteous lobbying" can be beneficial. They explain that such an encounter sometimes points up to them the important aspects of at least one side of a measure with which they might not have had time to become entirely familiar. Additionally, they suggest that in the absence of staff for each legislator and most committees, lobbyists are frequently utilized by legislators as a resource for information gathering and research.

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[150] Ga. Code Ann. sec. 47-1003.

[151] *Ibid.*, sec. 47-1004.

[152] Senate Rule 22; House Rule 23.

Chapter IV

Powers and Limitations

SEPARATION OF POWERS

The Georgia Constitution commands that:

> The legislative, judicial, and executive powers shall forever remain separate and distinct, and no person discharging the duties of one, shall, at the same time, exercise the functions of either of the others, except as herein provided.[1]

This is the celebrated "separation of powers" clause, and an understanding of its impact on the General Assembly is important to the legislator.

Generally speaking, the doctrine of separation of powers has been interpreted to mean that no branch–legislative, executive, or judicial–is subordinate to the others, but all are to be recognized as coordinate, independent, and coequal branches.[2] Without an express constitutional provision, no branch may infringe upon the power, jurisdiction, or ordinary functions of the others.[3] Furthermore, on numerous occasions, the court has demonstrated its commitment to protecting each branch from invasion by the others.[4]

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1. Ga. Const. art. I, sec. I, par. XXIII.
2. 16 *American Jurisprudence* 2d, sec. 211, p. 450.
3. *Parks v. State*, 212 Ga. 433, 93 S.E. 2d 663 (1956); *Fortson v. Weeks*, 232 Ga. 472, 208 S.E. 2d 68 (1974).
4. *McCutcheon v. Smith*, 199 Ga. 685, 35 S.E. 2d 144 (1945); *Parks v. State, supra.*

Yet, "this separation is not, and, from the nature of things, cannot be total."[5] First, under the concept of *checks and balances*, each branch has been given certain constitutional powers to limit the other branches, such as executive veto of legislation. Secondly, in a legal sense, the legislative branch is a first among equals by virtue of its broad lawmaking and funding powers over the other branches (except where constitutionally limited).[6] Thirdly, it is impossible to draw a precise line to distinguish every governmental action as either *executive, legislative,* or *judicial.*[7]

Regarding the third point, the Georgia Supreme Court occasionally has incorporated some variant of Chief Justice Marshall's separation of powers maxim: "the legislature makes, the executive executes, and the judiciary construes the law."[8] Unfortunately, this offers little to understanding the boundaries of legislative, executive, and judicial prerogatives which cannot be breached by the other branches.

Defining when a particular function is "executive" in nature, and thus outside the limits of legislative exercise, has been particularly troublesome.[9] Courts have tended simply to conclude that if a particular activity is not "judicial" or "legislative" in the strictest sense, then it apparently falls within the executive branch.[10]

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5. *Beall v. Beall*, 8 Ga. 210 (1850); *Mayor & Council of Americus v. Perry*, 114 Ga. 871, 40 S.E. 1004 (1902).

6. *Myers v. U.S.*, 272 U.S. 52, 47 S. Ct. 21 (1926). As Georgia's high court noted on one occasion:

> While, in theory, the other departments, judicial and executive, may be co-ordinate, yet it is a fact authenticated by history, that the people attach themselves to the Legislature as the fountain of power, whose right it is to direct the action and enlarge or limit the powers exercised by the others. [*Walker v. Whitehead*, 43 Ga. 538 (1871).]

7. *Southern R. Co. v. Melton*, 133 Ga. 277, 65 S.E. 665 (1909).

8. *Wayman v. Southard*, 10 Wheat (23 U.S.) 46, 6 L.E. 253 (1835).

9. Black's *Law Dictionary* (4th ed., 1951) suggests the "executive function" relates to management, control, and supervision of programs or activities, with accompanying authority to outline duties and direct the work of subordinate employees. [p. 679] According to this same source, "executive officers" are those officials in government who have been entrusted with the power to administer laws, and who have the duty to insure that enactments of the legislature are implemented and obeyed. [pp. 678-79].

10. *Springer v. Philippine Islands*, 277 U.S. 189, 48 S. Ct. 122 (1928); *Rich v. State*, 237 Ga. 291, ___S.E. 2d___(1976). Framers of Georgia's Constitution of 1945 were aware of this problem but unable to resolve precisely what constitutes the executive branch. [See Albert B. Saye, (ed.), *Records of the Commission of 1943-44 to Revise the Constitution of Georgia*, Vol. I, p. 197 (1946).]

Several recent decisions of the Georgia Supreme Court help to more clearly define separation of powers. In 1975 the court looked at legislative membership on two statutorily-created agencies–the World Congress Center Authority *and the State* Properties Commission–and ruled in both cases that since the agencies performed executive functions, legislative membership on these bodies violated the Constitution's separation of powers mandate.[11] To allow the legislature to create an agency to implement specific legislation and then place legislators on that agency's governing body allowed the legislature to retain some control over implementation, the court added. This arrangement, if carried to the extreme, could allow the legislature to enact specific legislation and then appoint an ad hoc committee of its own members to implement it.[12]

In these decisions, it should be noted, the court did not rule out legislative participation in the executive branch in all situations. It may be that no constitutional harm would be incurred by legislative participation on "executive" boards and councils which perform advisory functions only, and which, in no way, become involved in the executive or implementing process.

In a more recent decision, the court ruled that the state auditor was part of the executive branch, "for he has no lawmaking power."[13] His election by and responsibility to the legislative branch (as well as the governor) was, to the court, "simply a reflection of the system of checks and balances among the three branches of government."[14]

Thus, rather than being a rigid principle, "separation of powers" has and does assume a degree of flexibility to permit practical arrangements in a complex government.[15]

DELEGATION OF LAWMAKING POWERS

If the separation of powers clause prevents one branch from encroaching on the functions of the others, it also prohibits one branch from delegating its essential functions to another. Thus, the Georgia General Assembly cannot confer on any person or body the power to determine what the law shall be in this state.[16] A statute will be declared unconstitutional as an improper delegation of legislative power if it is incomplete as legislation and allows an executive agency to decide what is and what is not an infringement of the law.[17] Following this principle, the supreme court recently invalidated a statute which, in delegating certain powers to a state board, gave that board authority to determine which acts (possession of depressant and stimulant drugs) would constitute a crime.[18]

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[11] *Greer v. State*, 233 Ga. 667, 212 S.E. 2d 836 (1975); *Murphy v. State*, 233 Ga. 681, 212 S.E. 2d 839 (1975).

[12] *Greer v. State, supra.*

[13] *Rich v. State*, 237 Ga. 291, ___S.E. 2d___(1976).

[14] *Ibid.*

[15] *Greer v. State, supra.; Rich v. State, supra.; Parks v. State, supra.*

Nevertheless, the legislature may confer upon administrative agencies "quasi-legislative functions which it itself might perform, but could not so adequately perform directly as it could by delegating them."[19]

> Thus, while it is necessary that a law, when it comes from the lawmaking power shall be complete, still there are many matters as to methods or details which the legislature may refer to some designated ministerial officer or board [Cit.] The constitutional prohibition, therefore, does not deny to the lawmaking body "the necessary resources of flexibility and practicality, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply." [Cit.] 20

LAWMAKING POWERS

The Georgia Constitution confers broad lawmaking powers on the legislature, stating that: "The General Assembly shall have the power to make all laws consistent with this Constitution, and not repugnant to the

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16. *Bohannon v. Duncan*, 185 Ga. 840, 196 S.E. 897 (1938).

17. *Sundberg v. State*, 234 Ga. 482, 216 S.E. 2d 332 (1975); *Johnston v. State*, 227 Ga. 387, 181 S.E. 2d 42 (1971).

18. *Sundberg v. State, supra.*

19. *Abbot v. Commissioners*, 160 Ga. 657, 129 S.E. 381 (1925); *Campbell v. Farmer*, 223 Ga. 605, 157 S.E. 2d 276 (1967); *Stevens v. Stewart*, 118 Ga. App. 811, 165 S.E. 2d 572 (1968); *City of Calhoun v. N. Ga. Elec. Memb. Corp.*, 233 Ga. 759, 213 S.E. 2d 596 (1975). For a discussion of delegation of legislative power to local governments in Georgia, see R. Perry Sentell, Jr., "Delegation in Georgia Local Government Law," 7 *Georgia State Bar Journal* 9 (August 1970).

20. *Bohannon v. Duncan, supra.* at 843.

Constitution of the United States, which they shall deem necessary and proper for the welfare of the State."[21]

Nor are the powers of the General Assembly limited only to those expressly enumerated in the Constitution. The Georgia Supreme Court has held that there are no restrictions on the General Assembly's power to legislate, so long as its laws do not violate the U.S. or Georgia Constitutions.[22] The courts will assume that the General Assembly is authorized to enact a given law unless there is a stated or implied constitutional denial of legislative authority involved.

In addition to granting broad power to make laws, the Constitution and statutes explicitly state certain lawmaking powers of the General Assembly, such as:

(1) to tax for purposes stated in the Constitution (but only for purposes stated therein);[23]

(2) to appropriate public funds (no state funds may be expended except as appropriated by the General Assembly);[24]

(3) to establish courts not enumerated in the Constitution, provided they are uniform throughout the state;[25]

(4) to abolish courts not specifically established by the Constitution;[26]

(5) to prescribe the duties, authority, and salaries of the executive officers of the state;[27]

(6) to provide for the organization and training of the state militia;[28]

(7) to make provisions for grants of state, county, or municipal funds to citizens of the state for educational purposes;[29]

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[21] Ga. Const. art. III, sec. VII, par. XX.

[22] *Nicholas v. Hovenor*, 42 Ga. 514 (1870); *Plumb v. Christie*, 103 Ga. 686, 30 S.E. 759 (1898); *Green v. Harper*, 177 Ga. 680, 170 S.E. 872 (1933); *Petty v. Hospital Authority of Douglas County*, 233 Ga. 109, 210 S.E. 2d 317 (1974); and *Sears v. State*, 232 Ga. 547, 208 S.E. 2d 93 (1974).

[23] Ga. Const. art. VII, sec. II, par. I.

[24] Ga. Const. art. III, sec. VII, par. XI.

[25] Ga. Const. art. VI, sec. IX, par. I.

[26] Ga. Const. art. VI, sec. XVIII, par. I.

[27] Ga. Const. art. V, sec. II, par. II.

[28] Ga. Const. art. X, sec. I, par. I.

[29] Ga. Const. art. VIII, sec. XIII, par. I.

(8) to regulate railroad freight and passenger tariffs and the charges made by public utilities;[30]

(9) to authorize the use of eminent domain for public purposes;[31] and

(10) to waive or qualify the state's sovereign immunity from suit.[32]

The General Assembly has broad authority to legislate with regard to the powers, duties, and functions of city and county government in the state.[33] Also, exclusive power is given the General Assembly to propose both general and local amendments to the existing Constitution or to propose a new constitution (or provide for a convention or commission to propose a new constitution), though such proposals must be submitted to the voters of the state for ratification.[34]

No general obligation debt may be incurred by the state until the General Assembly has enacted legislation stating the purposes for which such debt is to be incurred, specifying the maximum principal amount of such issue, and appropriating an amount at least sufficient to pay the highest annual debt service requirements for the issue. Similarly, guaranteed revenue debt may not be incurred until the General Assembly has authorized by legislation the guarantee of the specific issue, specifying the maximum principal amount of such issue and appropriating an amount at least equal to the highest annual debt service requirements for such issue.[35]

Except as provided by the Constitution, the General Assembly has broad powers over public officers and employees in the executive branch. These powers cover matters of eligibility and qualifications for office; oaths; bonds; vacancies and resignations; inspection of books, papers, and reports; salaries; fees; counsel for state employees; open meetings; insurance; strikes; retirement; crimes; and various other matters.[36]

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30. Ga. Const. art. IV, sec. I, par. I.

31. Ga. Const. art. IV, sec. II, par. I; Ga. Code Ann. sec. 36-101.

32. Ga. Const. art. VI, sec. II, par. X.

33. See, for example, Ga. Const. art. III, sec. VII, par. XXIII; art. VI, sec. XVII, par. I; art. VII, sec. II, par. I; art. VII, sec. IV, par. I, II; art. VII, sec. VII, par. V-A; art. VIII, sec. V, par. I; art. XI, sec. I, par. IV, VII; art. XV, sec. I, par. I; art. XV, sec. II, par. I.

34. Ga. Const. art. XIII, sec. I, par. I-II.

35. Ga. Const. art. VII, sec. III, par. I.

36. See Ga. Code Ann. Title 89 in particular.

In addition to these specific powers, the Constitution, in providing for many of the executive officers, boards, and departments, directs that their powers, authority, and duties shall be provided by the General Assembly. Thus, there are a variety of "constitutional boards," or "constitutional agencies," whose memberships, terms of office, and appointments are constitutionally stipulated, but whose powers and duties are statutorily directed. There are currently no executive agencies so constitutionally insulated as to be totally immune from at least some aspect of legislative control; certainly this is true regarding appropriations.

The grants of power to the General Assembly, both general and specific, are that much more absolute, since neither the Georgia Constitution nor state laws provide for popular initiative–that is, allowing a specified number or percentage of voters to propose changes in the Constitution or in state law.[37] As will be seen later, however, the Constitution contains numerous restrictions on the General Assembly's lawmaking powers.

NON-LAWMAKING POWERS AND FUNCTIONS

In addition to enacting laws and appropriating funds, the Georgia legislature performs a variety of other important functions.

[37] There has been some use in Georgia, however, of the *referendum*–a device whereby the legislature submits to the vote of qualified voters whether a proposed act shall become effective. The constitutionality of referenda on proposed local acts (as with annexation measures), in which the voters of the city, county, or area to be affected decide whether that act shall become effective, has been upheld by the State Supreme Court. *Caldwell v. Barrett*, 73 Ga. 604 (1884). See also *Mayor and Council of Brunswick v. Finney*, 54 Ga. 317, 324 (1875), in which the court distinguishes between referenda on general and local acts. In *Hines v. Etheridge*, 173 Ga. 870, 872, 162 S.E. 113 (1931), the court observed:

> This state has been committed for many years to the doctrine that the legislature may submit to the electorate the question whether legislation framed and approved by the General Assembly shall become operative.

The supreme court, however, has avoided passing on the constitutionality of a referendum of a general act. See *Reynolds v. State*, 181 Ga. 547, 182 S.E. 917 (1935) and *Holcombe v. Georgia Milk Producers Confederation*, 188 Ga. 358, 3 S.E. 2d 705 (1939). Interestingly, a statewide referendum was actually held in 1935 (Ga. Laws 1935, p. 327) on a general act to repeal prohibition in Georgia. The supreme court, however, avoided passing on the referendum's constitutionality in *Reynolds v. State*, *supra*.

APPOINTMENT OF STATE OFFICERS

Any state officer whose selection is not otherwise provided for is elected by the General Assembly in the same manner and at the same time it elects other officers.[38] Currently, there are few–if any–officers whose selection is unprovided for. Under present law, the General Assembly does select the state auditor, who is elected by the House and confirmed by the Senate for an indefinite term (until his successor is elected in a like manner).[39] Also, the Senators and Representatives in each of the state's ten congressional districts caucus to elect the member of the State Transportation Board from their district.[40]

CONFIRMING APPOINTMENTS OF THE GOVERNOR

All appointments by the governor to boards, commissions, and bureaus created by the General Assembly are subject to confirmation by the Senate.[41] If they are not confirmed, they may not hold office, and the name of another appointee must be submitted immediately by the governor. With regard to this Senate power, the Georgia Supreme Court has observed that the Senate does not acquire the power to discharge officials once confirmed, and that the power of approving appointees does not include the power to later discharge that appointee.[42] Once the Senate has rejected an appointment of the governor to any office, such person may not be reappointed by the governor to the same office during the same session or the interim before the next session.[43]

Appointments by the governor to boards and commissions established by executive order are not subject to Senate confirmation.

ELECTIONS

In a chiefly ministerial function, designated legislative officers sit as the Constitutional Officers Election Board to open and publish the returns of the races for elected officials in the executive branch.[44]

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[38] Ga. Code Ann. sec. 47-401.

[39] Ga. Code Ann. sec. 40-1801.

[40] Ga. Const. art. V, sec. XI, par. I; Ga. Code Ann. sec. 95A-306.

[41] Ga. Code Ann. sec. 40-314. See also Op. Att'y Gen. 66-231 (1966) for elaboration on confirming authority of Senate. It should further be noted that sec. 40-314 apparently repeals by implication sec. 40-313, which was passed two years earlier and states, "No appointment by the Governor shall be subject to confirmation by the Senate unless the statute under which such appointment is made requires confirmation or confirmation is otherwise required by law." The policy of the Governor's Office is to submit every appointment to an office created by the General Assembly to the Senate for confirmation.

[42] *Richmond County v. Jackson*, 234 Ga. 717, 218 S.E. 2d 11 (1975).

[43] Ga. Const. art. V, sec. I, par. XIV.

As previously mentioned, the legislature possesses the power to determine contested elections of its members in the method provided by law. It can fill the unexpired terms of all other elective officials by providing for special elections, except as otherwise specified in the Constitution.[45]

SPECIAL OVERSIGHT POWERS

In addition to its other powers, the General Assembly possesses some special authority to oversee the executive branch. First, all books kept by any public officer under Georgia laws are subject to the inspection of any legislator (as well as any citizen),[46] and the minutes of any meeting of any state agency at which official actions are taken must be recorded and open for similar inspection.[47] By law, the General Assembly is granted authority as complete and absolute as that granted to the attorney general to conduct investigations at any time into the affairs of the state, any agency, or of any person or organization to the extent that person or organization has dealings with the state.[48] For purposes of conducting these investigations, the General Assembly may subpoena witnesses, require them to testify under oath, and require the production of books, records, and papers.[49]

Either House or Senate appropriations committee (or the governor) may require the state auditor to make a special examination and audit of all books, records, accounts, vouchers, warrants, bills, and other papers and records, and the financial transactions and management of any agency at any time.[50] Additionally, the auditor is directed to cooperate with either appropriations committee and to furnish any information requested for its use.[51] Officers and employees of all state agencies are directed to produce and turn over to the auditor or his assistants for examination and audit–upon demand–all of their books, records, accounts, vouchers, warrants, bills, and other papers dealing with or reflecting upon the financial transactions and management of such agency, officer, or employee.[52]

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[44] Ga. Const. art. V, sec. I, par. III-IV.

[45] Ga. Const. art. V, sec. I, par. V, VIII.

[46] Ga. Code Ann. sec. 89-601.

[47] *Ibid.*, sec. 40-3301.

[48] *Ibid.*, sec. 40-1620.

[49] *Ibid.*, sec. 40-1615.

[50] Ga. Code Ann. sec. 40-1806.

[51] Ga. Code Ann. sec. 40-1809.

The governor is directed to give the General Assembly information on the state of the state annually, and recommend for its consideration such measures as he may deem necessary or expedient.[53] It is the governor's duty to furnish a written report to each member of the General Assembly, stating his administration's policies and goals in the areas of:

(1) intellectual development
(2) human development
(3) transportation and communications
(4) economic development
(5) protection of persons and property
(6) natural environment
(7) general government

This annual report to the General Assembly may also include other subjects besides those required by law. At his discretion, the governor may elect not to submit this report during the last year of his term of office.[54]

Though not all agencies are so required, many executive departments and agencies are directed by statute to submit annual or other periodic reports to the General Assembly and governor, detailing accomplishments and activities, as well as recommendations for additional legislation.

When any state agency to which funds are appropriated plans to institute a new program, its head must furnish legislators, at least forty-five days prior to the convening of the assembly, with a description of the program, its purpose, the reason for seeking to institute such a program, proposed operating procedures, and any other information which would be helpful to the legislature in determining whether or not to fund that program. The agency must also furnish the projected costs for at least each of the next five fiscal years.[55]

IMPEACHMENT

Still another non-lawmaking power of the General Assembly is

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52. Ga. Code Ann. sec. 40-1808.
53. Ga. Const. art. V, sec. I, par. XII.
54. Ga. Code Ann. sec. 40-219.
55. Ga. Code Ann. sec. 40-419.1.

the power of impeachment. The Constitution of Georgia specifically invests this power in the General Assembly. Impeachment has been generally defined as "a criminal proceeding against a public officer, before a quasi political court, instituted by a written accusation called 'Articles of Impeachment.' "[56]

In Georgia, the House of Representatives is given the sole power to vote impeachment charges against any person who has been, or is, in office.[57] After the members of the House have voted the "Articles of Impeachment" against a particular official, the Senate is vested with the sole power of trying the case.[58]

When sitting for the purpose of trying impeachments, the members of the Senate are on oath or affirmation, and are presided over by the Chief Justice of the Georgia Supreme Court. If the chief justice should be disqualified from presiding, the Senate selects for its presiding officer another supreme court justice.[59]

To convict a defendant in an impeachment case, two-thirds of the total membership of the Senate must vote to do so.[60] Judgments of the Senate in such cases can extend no further than removal from office and disqualification from holding and enjoying any office of honor, trust, or profit within this state. However, the convicted official is still liable and subject to indictment, trial, judgment, and punishment by the appropriate courts of the state.[61]

LIMITATIONS ON POWERS

It would seem appropriate to consider some of the limitations and restrictions placed upon the powers exercised by the General Assembly. The limitations vary widely in nature and importance, and only some of the more general ones will be mentioned here.

General Limitation: The General Assembly cannot validly pass any act which is in violation of the Georgia or United States Constitutions.[62] It can enact no law which curtails or restrains the liberty of speech or of the press.[63] The social status of citizens can never be the subject of legislation.[64]

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[56] Black, *Law Dictionary* (4th ed., 1951).

[57] Ga. Const. art. III, sec. VI, par. III.

[58] Ga. Const. art. III, sec. V, par. III.

[59] Ga. Const. art. III, sec. V, par. IV.

[60] *Ibid.*

[61] Ga. Const. art. III, sec. V, par. V.

The legislature is prohibited from passing any bill of attainder, ex post facto law, retroactive law, or law impairing the obligation of contract. It is forbidden to make any irrevocable grant of special privileges or immunities.[65]

Forfeited Recognizances: The power to relieve principals or securities from payment under forfeited recognizances, either before or after judgment, is likewise denied the General Assembly, unless the principal in the recognizance has been apprehended and placed in proper custody.[66]

Monopolies: Contracts or agreements which tend to defeat or lessen competition or to encourage monopoly are expressly declared illegal and void, and the legislature is forbidden to authorize them.[67]

Taxation: The power of the General Assembly is limited in that it cannot irrevocably give, grant, limit, or restrain the sovereign right of taxation.[68] As noted above, the powers of taxation over the state can be exercised by the General Assembly only for the purposes which are specifically set out in the State Constitution.[69]

Donations and Gratuities: The legislature cannot authorize any county, municipal corporation, or political division of this state to become a stockholder in, or to appropriate money for, any company, corporation, or association, except for purely charitable purposes.[70] The appropriation of money in aid of any church, sect, or denomination, or of any sectarian institution, is also prohibited. The constitutional prohibition against granting any donation or gratuity in favor of any person, corporation, or association has been the basis for numerous challenges against actions of the General Assembly.[71]

62. Ga. Const. art. I, sec. IV, par. II.
63. Ga. Const. art. I, sec. I, par. XV.
64. Ga. Const. art. I, sec. I, par. XVIII.
65. Ga. Const. art. I, sec. III, par. II.
66. Ga. Const. art. III, sec. VII, par. XVIII.
67. Ga. Const. art. IV, sec. IV, par. I.
68. Ga. Const. art. VII, sec. I, par. I.
69. Ga. Const. art. VII, sec. II, par. I.
70. Ga. Const. art. VII, sec. V, par. I.
71. Ga. Const. art. VII, sec. I, par. II.

Separation of Powers: In addition to these types of limitations, it will be remembered that the General Assembly is constrained by the separation of powers clause in the Constitution from encroaching on the functions of the executive and judicial branches, as well as voluntarily yielding legislative powers to these branches (see preceding section, "Delegation of Legislative Powers"). Thus, not only is the legislature prohibited from assuming or exercising executive powers, but its members may not sit on state boards entrusted with executive functions.[72]

Similarly, the General Assembly may not dictate to the judiciary how to write its opinions or what form the decisions must take,[73] nor may it alter judgments of such courts.[74] Nor may the legislature circumscribe the power of the supreme court by adopting rules and regulations governing the bar and practice of law in the state.[75]

Binding Future Legislatures: Another important limitation on the General Assembly is that one legislature cannot bind or tie the hands of its successors, or impose upon them conditions with reference to subjects upon which they have an equal power to legislate.[76] However, an act of one legislature–as setting salaries–will be binding upon future legislatures, unless they choose to repeal or amend it. The important point is that no one statute can preclude or bind future statutes on the same subject. Similarly, one legislature has no power to declare the intent of a prior General Assembly in enacting a law, as this would be a legislative attempt to construe a law–a judicial function under Georgia's Constitution.[77]

Other: Additional limitations on the General Assembly are discussed in the following chapter, particularly those that relate to requirements for legislation.

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[72] See *Greer v. State, supra.* and *Murphy v. State, supra.*

[73] *Taylor v. Columbia County Planning Commission*, 232 Ga. 155, S.E. 2d (1974).

[74] *Jenkins v. Jenkins*, 233 Ga. 902, 214 S.E. 2d 368 (1975); *Northside Manor v. Vann*, 219 Ga. 298, 133 S.E. 2d 32 (1963).

[75] *Sams v. Olah*, 225 Ga. 497, 169 S.E. 2d 790 (1969).

[76] *State Highway Dept. v. Hatcher*, 218 Ga. 299, 127 S.E. 2d 803 (1962); *Shaw v. Mayor & Council of Macon*, 21 Ga. 280 (1857).

[77] *Undercofler v. Swint*, 111 Ga. App. 117, 140 S.E. 2d 894 (1965).

Chapter V

Bills and Resolutions

Before considering the procedure for introduction and passage of legislation, it seems advisable to describe briefly the various classifications of legislation. Knowledge of these is necessary to understand some of the procedural matters to be discussed.

Bills and Resolutions: All legislation introduced in the Georgia General Assembly is classified as either a "bill" or a "resolution." The word "bill" refers to proposed legislation, from the initial draft as introduced in one of the houses, through the various committee and floor stages until finally enacted into law. A "resolution" is similar to a bill, but may or may not have the force of law, depending on the subject matter and intent of the legislature.[1] Although resolutions represent a formal expression of legislative opinion on a given subject, they may be used for other purposes, as noted later.

A bill becomes what is known as an "act," "law," or "statute" when it passes both houses in identical form and is signed by the governor, becomes law without the governor's signature, or is passed over the governor's veto. Though these three terms tend to be used interchangeably, there is a slight distinction among them, depending on the context in which each is used.[2]

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[1] One distinction that should be noted between a bill and resolution is that bills more commonly propose changes or additions to the existing body of statute law, while resolutions do not usually attempt to change statute law (with the possible exception of resolutions proposing constitutional amendments). Also, bills comprise the major legislative product of the two houses.

Code and Code Annotated: A compilation of statutes and their revisions according to subject matter (usually arranged by title, chapter, and section) is termed a "code." The official codification of Georgia statutory law is the *Code of 1933*. Many legislative enactments since 1933, however, have not been officially incorporated into this code by the General Assembly. A more complete, though unofficial, codification of Georgia statutory law is found in the *Georgia Code Annotated*, published by the Harrison Company, a private firm in Atlanta. The annotated code contains the *Code of 1933* as well as all subsequent legislative enactments. It also includes editorial notes and annotations of the State Court of Appeals, the State Supreme Court, and federal court decisions construing Georgia statutory and constitutional law. The *Georgia Code Annotated*, however, has never been enacted or adopted by the legislature, an action necessary before it can become the official law of Georgia.[3]

GENERAL LEGISLATION

Bills considered by the General Assembly are classified as either (1) general or (2) local or special in their application.

General laws are those laws enacted by the General Assembly which have statewide application. A law may be categorized as general by virtue of its uniform territorial application (e.g., a law affecting all counties), its uniform subject matter application (e.g., a law affecting observance of holidays), or by a combination of both.

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[2] "Statute" refers to formal enactments of the legislature of a more permanent nature (as distinguished from legislation of a temporary character, e.g., appropriation acts). "Statute" also is used to designate *written* law, as distinguished from unwritten law. "Law" is a general term, often used to refer not only to formal legislative enactments, but also to include the whole body of rules enacted by government, including constitutional provisions, judicial interpretation, etc. "Act" is any bill which has passed both houses in identical form and been signed by the governor (or has become law without his signature, or has been passed over his veto).

[3] For the view of the Court of Appeals and the Supreme Court of Georgia on the Georgia Code Annotated, see *Bowen v. State*, 215 Ga. 471, 111 S.E. 2d 44 (1959); *Parrott v. Fletcher*, 113 Ga. App. 45, 146 S.E. 2d 923 (1966); and *Jenkins v. Board of Zoning Appeals of the City of Columbus*, 122 Ga. App. 412, 177 S.E. 2d 204 (1970).

Georgia's Constitution provides that all general laws shall have uniform operation throughout the state, and no local or special law may be passed in subject areas covered by a general law.[4] This provision is to prevent confusion that could obviously result from a general law and a local law dealing with the same subject matter.[5]

Georgia courts, however, have held that the constitutional prescription that a general law shall have uniform operation throughout the state does not mean that it necessarily applies to every citizen of the state, nor even produces a uniform effect on every person or entity subject to the act.[6] The fourteenth amendment's "equal protection" clause does not prohibit the General Assembly from drawing lines that treat one class of individuals or entities differently from others, so long as:

(1) the legislative purpose is legitimate and the classification has a reasonable relation to furthering that purpose;
(2) the classification is rational and not arbitrary nor invidious;
(3) the classification employed furnishes a legitimate ground of differentiation;
(4) the law will operate uniformly on all persons or classes who will be subject to its application.[7]

General laws may be amended or repealed by subsequent general acts of the General Assembly, or by subsequent amendments to the state's Constitution. General laws that violate the federal or state constitutions may also be made inoperative by state or federal court decisions. In these cases, however, amendment or repeal of the laws must be formally enacted by the General Assembly. While it is true that in some cases, general

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4. Ga. Const. art. I, sec. IV, par. I.

5. It is reported that, with the exception of the due process clause of the Constitution, the provision for the uniform operation of general laws has historically been cited most frequently by the courts as the basis for declaring legislation unconstitutional in Georgia. See Saye, *Handbook on the Constitutions of the United States and Georgia* (9th ed., 1971), p. 54.

6. *City of Calhoun v. N. Ga. Elec. Mem. Corp.*, 233 Ga. 759, 213 S.E. 2d 596 (1975); *Employers Mut. Liability Ins. Co. v. Carson*, 100 Ga. App. 409, 11 S.E. 2d 918 (1960).

7. *Blackmon v. Monroe*, 233 Ga. 656, 212 S.E. 2d 827 (1975); *Wilder v. State*, 232 Ga. 404, 207 S.E. 2d 38 (1974); *Jinks v. Mays*, 332 F. Supp. 254 (D.C. Ga., 1971); *Black v. Blanchard*, 227 Ga. 167, 179 S.E. 2d 228 (1971); *Cragg v. State*, 224 Ga. 196, 160 S.E. 2d 817 (1968).

INTOXICATING LIQUORS—DISTILLED SPIRITS BRANDS—PUBLIC INSPECTION OF RECORDS PROVIDED.

No. 879 (House Bill No. 1388).

An Act to amend an Act known as the "Revenue Tax Act to Legalize and Control Alcoholic Beverages and Liquors", approved February 3, 1938 (Ga. L. 1937-38, Ex. Sess., p. 103), as amended, so as to provide that certain records pertaining to distilled spirits brands, shipments and sales shall be open to public inspection; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. An Act known as the "Revenue Tax Act to Legalize and Control Alcoholic Beverages and Liquors", approved February 3, 1938 (Ga. L. 1937-38, Ex. Sess., p. 103), as amended, is hereby amended by adding an additional paragraph to section 22 as follows:

"The records of the State Revenue Commissioner relating to distilled spirits brands, shipments, and sales by manufacturers, shippers or wholesalers shall at all reasonable times be open to the inspection of the public."

Section 2. This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.

Approved March 5, 1976.

Figure 1. GENERAL ACT

statutes may be repealed by implication (see p. 104), such practice is not favored by the courts.[8]

POPULATION ACTS

The so-called "population acts"–a hybrid variety of general legislation–should perhaps be mentioned at this point. A population act is a general law, but one drafted to affect only localities falling within certain population brackets according to a definite census as specified in the act (*e.g.*, a law providing that property titles may be recorded on microfilm in any county of the state having a population of not less than 185,000 nor more than 190,000 according to the 1970 or any future census). Usually, only one city or county in the state falls within these brackets, resulting in a general law of local application.

The general position of the Georgia Supreme Court has been to view properly drafted population acts which employ legitimate population classifications as valid general laws.[9] The tests developed by the court include:

(1) does the population classification in the act (a) constitute a legitimate ground for differentiation; and (b) have a reasonable relation to the subject matter of the act;

(2) are the minimum and maximum population figures in the act so narrowly drawn that, "It would be a matter of wildest chance if any other county . . . in the next census . . . or any subsequent census [would] have a population exactly within the prescribed limitations.";[10]

(3) is the act so framed as to allow all counties coming within the population classification to be covered by its provisions, while all counties outside of this classification would be excluded; and

(4) are provisions of the act "open-ended" so that following future censuses, cities and counties may pass out of, as well as into, population classifications set forth in the act.[11]

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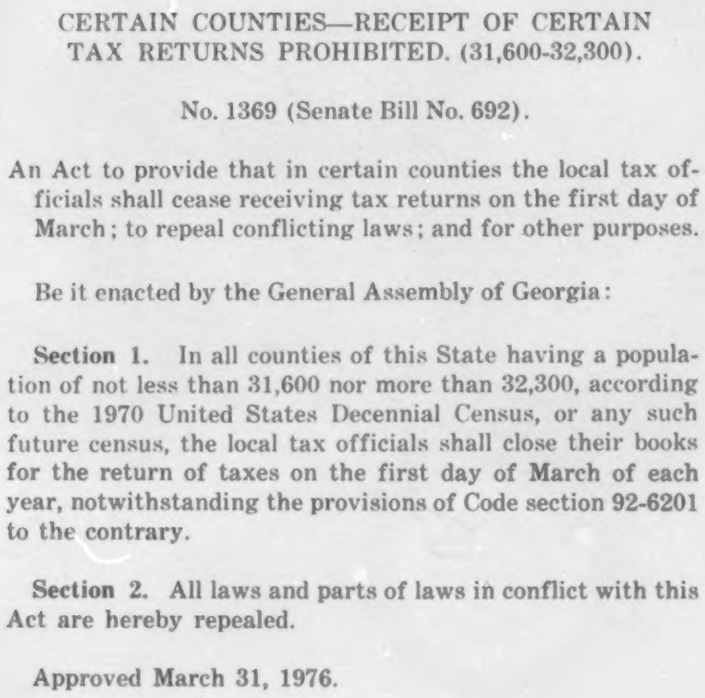
[8] See citations, footnote 95, *infra.*

[9] For a more extensive discussion, see J. Devereux Weeks, *County Population Acts* (Athens: Institute of Government, 1976), pp. 3-9.

[10] *Gibson v. Hood*, 185 Ga. 426, 430-31, 195 S.E. 444 (1938).

[11] *City of Atlanta v. Gower*, 216 Ga. 368, 116 S.E. 2d 738 (1960); *Stewart v. Anderson*, 140 Ga. 31, 78 S.E. 457 (1913); *Gibson v. Hood, supra.*; *Tift v. Bush*, 209 Ga. 769, 75 S.E. 2d 805 (1953).



CERTAIN COUNTIES—RECEIPT OF CERTAIN TAX RETURNS PROHIBITED. (31,600-32,300).

No. 1369 (Senate Bill No. 692).

An Act to provide that in certain counties the local tax officials shall cease receiving tax returns on the first day of March; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. In all counties of this State having a population of not less than 31,600 nor more than 32,300, according to the 1970 United States Decennial Census, or any such future census, the local tax officials shall close their books for the return of taxes on the first day of March of each year, notwithstanding the provisions of Code section 92-6201 to the contrary.

Section 2. All laws and parts of laws in conflict with this Act are hereby repealed.

Approved March 31, 1976.

Figure 2. POPULATION ACT

For an act that classifies by population to be considered general in application, the classification embodied must possess a reasonable relation to the subject matter of the law and furnish a legitimate ground of differentiation. On this basis, the court struck down one population act which attempted to prohibit non-commercial fishing on Sunday in three counties of unrelated populations.[12] Another act was held unconstitutional which created law libraries in counties of 70,000-110,000 population to be financed through a $2 charge in each court case. Here, the court held there was no reasonable relationship between the population range and the subject matter of the act, and that counties with populations fewer than 70,000 had the same need for a law library as counties whose population exceeded 110,000.[13]

A population act must apply uniformly to all localities within its population brackets and cannot be drafted where its provisions–for one reason or another–would not extend to all counties within the classification.[14]

In some of these acts, population brackets have been so tightly drawn that the upper and lower population limits have differed by as little as ten. In striking down one such act, the court noted that the limits made it apparent that the intent of the act was to apply to the one county in the state which fell within them. It suggested that it was improbable that any county in the future–including the county the act was designed for–would have a census population precisely between 4,340 and 4,350, the brackets for that act.[15]

Another court-formulated test requires that the population range specified by the act must be left open-ended so that following future censuses, localities will become subject or exempt from the law as they gain or lose in population. If the range is closed so that it can apply only to a locality or localities having the stated population at the time of the law's enactment, then clearly the law is not a general one.

In applying this test, the court has upheld a population act applying to counties within a specified population range, according to a particular census "or" any future census, on the ground that the provisions were open-ended.[16] In contrast, a law applying to counties within a range according to a particular census "and" any future census was held special

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[12] *McAllister v. State*, 220 Ga. 570, 140 S.E. 2d 838 (1965).

[13] *Dougherty County v. Bush*, 227 Ga. 137, 179 S.E. 2d 343 (1971).

[14] *Stewart v. Anderson, supra.*

[15] *Gibson v. Hood*, 185 Ga. 426, 195 S.E. 444 (1938).

[16] *Estes v. Jones*, 203 Ga. 686, 48 S.E. 2d 99 (1948).

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and unconstitutional.[17] In the latter instance, the court explained, although counties gaining in population could become subject to the terms of the law, those to which the law applied when it was enacted would not pass out of the classification if they should lose population. Thus, one end of the classification was closed.

Sometimes a population act will not employ a minimum-maximum bracket, but will specify that the act would be applicable in counties having a designated population or more, or counties having a designated population or less. In some cases, the limits are drawn so high that clearly only one county in the state would be covered under the act, but the court's attitude has been that they are valid, since they are open-ended and other counties might be also covered following future censuses.[18]

Several cautions should be noted regarding use of population acts. First, though classified as general legislation, the population act frequently is an obvious device to exempt a city or county from existing general law, and thus amounts to a type of local legislation.[19] Many of the population acts routinely enacted into law are of questionable constitutionality, as they violate one or more of the court tests discussed above, and thus are in danger of being successfully challenged as unconstitutional at any time. Indeed, not infrequently, these acts have been successfully overruled by the courts.[20]

Secondly, the population acts bearing on the powers and officers of cities and counties will no longer apply to that locality should its population in the next census move out of the brackets of the original act. Following the 1970 census, many Georgia cities and counties found that the statutory bases for many of their powers were invalid because they had passed out of the brackets of their population acts, and new or amended acts were necessary. For one county, this meant passage of thirty new population acts at the 1971 session.

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[17] *Tift v. Bush, supra.*; *Walden v. Owens*, 211 Ga. 884, 89 S.E. 2d 492 (1955).

[18] *Barge v. Camp*, 209 Ga. 38, 44, 70 S.E. 2d 360 (1952); *Commissioners of Roads & Revenues of Fulton County v. David*, 213 Ga. 792, 796, 102 S.E. 2d 180 (1958); *Gibson v. Hood, supra.*

[19] When the session laws are compiled annually, population acts are included with local acts and resolutions in the second volume, unless that population act has been incorporated into the Georgia Code (in which event it is found in volume one, along with general acts).

[20] See Weeks, *County Population Acts*, pp. 4-9.

LOCAL LEGISLATION

Local or special legislation is generally defined as that which applies to special or particular places or persons, as distinguished from legislation relating to classes of persons or subjects.[21] In Georgia, no distinction is currently observed between the terms "local act" and "special act," though at one time, special acts appear to have been used to legislate or provide special benefits to corporations or private individuals.[22] This practice has been abandoned in Georgia, however, and local acts are used exclusively in relation to city and county affairs or other matters of a local nature.[23]

Georgia's Constitution provides that local acts, not inconsistent with the state or federal constitutions, or with federal law, shall have the force of statutory law.[24] However, constitutional provisions also stipulate that no local or special law can be enacted in any case for which provision has been made by an existing general law.[25]

The distinction between general and local laws is not always apparent, as evidenced by court decisions that a law applying to all counties or cities of the state, with one city or county excluded by name, is not a general law.[26]

The attitude of the court has been clear that if a general act has been legislated with respect to a given subject matter, no local law can later be enacted which would repeal some portion of the general law.[27] Moreover, not only is a local act precluded from directly repealing provisions of a general statute, but it can neither expand nor contract its meaning.[28] In such cases, an actual conflict between a local and general law is not necessary in order for the local law to be rendered invalid.

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[21] Black, *Law Dictionary* (4th ed., 1951).

[22] For instance, divorces were once granted by legislative act in Georgia. The Georgia Constitution (art. XII, sec. I, par. IV) uses the term "private act" rather than "special act." By whatever term designated–local, special, or private–these acts are all of the same status with respect to general law.

[23] The General Assembly still legislates with respect to private individuals and corporations, but uses the resolution format in doing so, i.e., compensation resolutions.

[24] Ga. Const. art. XII, sec. I, par. IV.

[25] *Ibid.*, art. I, sec. IV, par. I.

[26] *Lorentz & Rittler v. Alexander*, 87 Ga. 44, 13 S.E. 632 (1891); *City of Cochran v. Lanfair*, 139 Ga. 249, 77 S.E. 95 (1912).

[27] *Mathis v. Jones*, 84 Ga. 808, 11 S.E. 1018 (1890); see also citations in footnotes, *infra*. Moreover, a local act in conflict with a general law cannot be passed in the guise of an amendment to the general law. *Morrison v. Cook*, 146 Ga. 570, 91 S.E. 671 (1916).

Where no general act has preempted an area for legislation, a local act is permissible. Should a general act later be passed covering a subject area already touched by one or more local acts, the local act will be allowed to stand unless the language or the general law makes it clear that the legislature contemplated or intended a repeal, or unless provisions of the two acts are clearly repugnant and irreconcilable.[29] Where both can stand, they should be construed accordingly; but where there is inconsistency, the general statute repeals the local act.[30]

Many local acts (especially those involving annexation) incorporate referendum requirements, where voters of the city, county, or area to be affected decide whether that act shall become effective.

When a local law adds one or more members to an elected municipal or county governing authority, that law must provide that the additional members be elected by the qualified voters of the political subdivision affected.[31] The use of local legislation to lengthen, shorten, or abolish the term of office of a local official during the time for which he has been elected is prohibited, unless the legislation is approved in a referendum by the people of the jurisdiction affected.[32]

As a final observation, note that local legislation has historically constituted the majority of bill enactments in the Georgia General Assembly. As Table 8 shows, 1976 was the first year in recent sessions where general acts predominated over local legislation.

The large number of local acts in the General Assembly is generally accounted for by the limited utilization of "home rule" authority by cities and counties.[33] "Home rule" generally refers to the ability of local governments to frame, adopt, and amend their own charters, powers, and laws. Because local governments are created by the state–and do not possess sovereignty as such–major changes often have to go before the legislature, rather than local governing authorities.

[28] *City of Atlanta v. Hudgins*, 193 Ga. 618, 630-31, 19 S.E. 2d 508 (1942).

[29] *Crosby v. Dixie Metal Co.*, 124 Ga. App. 169, 183 S.E. 2d 59 (1971); *White Oak Acres, Inc. v. Campbell*, 113 Ga. App. 833, 149 S.E. 2d 870 (1966); *Davis v. Dougherty County*, 116 Ga. 491, 42 S.E. 764 (1902).

[30] *Nash v. National Preferred Life Ins. Co.*, 222 Ga. 14, 148 S.E. 2d 402 (1966); *Parrish v. Mayor and Aldermen of Savannah*, 185 Ga. 828 (1938).

[31] Ga. Const. art. III, sec. VII, par. XV.

[32] *Ibid.*

[33] For a list of home rule powers which have been granted local governments, see Ga. Const. art. XV and art. IX, sec. III, par. I. Also, see Ga. Code Ann. chap. 69-10.

TABLE 8

ENACTMENT OF LOCAL BILLS IN THE GENERAL ASSEMBLY

Year	Total Bills Introduced*	Total Bills Passed*	Bills Passed		Local Acts As % of Total
			General	Local	
1970	1002	634	246	388	61.2%
1971	1447	830	270	560	67.5
1972	1339	779	321	458	58.8
1973	1662	800	319	481	60.1
1974	1171	677	289	388	57.3
1975	1636	780	357	423	54.2
1976	1928	709	360	349	49.2

*General and Local

INTRODUCTION OF LOCAL LEGISLATION

The Constitution prescribes some requirements for introducing local or special legislation in the General Assembly. In addition, the Committee on County and Urban Affairs (Senate) and the Local Affairs Subcommittee of the Committee on State Planning and Community Affairs (House) are authorized to establish rules governing the legislative consideration of local bills. At the beginning of each session, the rules adopted by each of these committees are printed and made available to members of the House and Senate.

Notice of Intention: The Constitution requires that before a member of the General Assembly can introduce a local or special bill, notice of his intention to do so must be published once a week for three weeks during a period of sixty days prior to the introduction of the bill. Such notice must appear in the newspaper in which the sheriff's advertisements for the locality affected are published. The notice must be certified by the publisher, or accompanied by an affidavit of the author to the effect that it has been properly published, and such notice must be attached to and made a part of the bill itself.[34]

The legislator's attention is called to rather strict interpretation here by the Georgia Supreme Court. For example, the court has not hesitated to hold local laws invalid on the sole ground that, during the process of their enactment, the enrolled bills did not embody a copy of the publication notice accompanied by the publisher's certification or the author's

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[34] *Ibid.*

BULLOCH COUNTY TAX COMMISSIONER—PERSONNEL SALARY CHANGES.

No. 1299 (House Bill No. 1975).

An Act to amend an Act creating the office of tax commissioner of Bulloch County, approved March 24, 1937 (Ga. L. 1937, p. 1261), as amended, particularly by an Act approved March 22, 1974 (Ga. L. 1974, p. 3043), so as to change the compensation of the tax commissioner's assistants; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. An Act creating the office of tax commissioner of Bulloch County, approved March 24, 1937 (Ga. L. 1937, p. 1261), as amended, particularly by an Act approved March 22, 1974 (Ga. L. 1974, p. 3043), is hereby amended by striking from section 8A the following:

"$6,000.000" and "$5,400.00",

and substituting in lieu thereof the following, respectively:

"$6,600" and "$6,000",

so that when so amended, section 8A shall read as follows:

"Section 8A. The tax commissioner is hereby authorized to employ two assistants. The first such assistant shall receive a salary not to exceed $6,600 per annum, and the second such assistant shall receive a salary not to exceed $6,000 per annum. Such salaries shall be payable in equal monthly installments from the funds of Bulloch County."

Section 2. This Act shall become effective on the first day of the month following the month in which it is approved by the Governor or in which it becomes law without his approval.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.

Figure 3. LOCAL ACT

affidavit.[35] Further, it has held that responsibility for seeing that such embodiment is accomplished lies squarely with the individual legislator, regardless of the fact that the omission from the enrolled bill may have been due to the fault or neglect of the clerk.[36]

In addition, the court has construed the pre-introduction procedures to include aspects not immediately apparent upon the face of the constitutional provision. For example, it has been held that a local bill cannot be introduced in the General Assembly during the week of the third publication of the notice in the newspaper.[37] Also, in an instance when, according to the calendar date, one of the publications took place on a Sunday, the local law was held unconstitutional.[38]

On the other hand, the court appears to have been rather liberal on the actual content of the notice. For example, it has said that no more information need be included than in the caption of the bill, and that a rather broadly-worded notice is sufficient.[39]

Readings: In both houses, the first and second readings of local bills are by title only,[40] and no debate on them is then allowed. A House member may ask unanimous consent that a local bill or resolution be taken up out of the normal order of business for its third reading and passage, but he must do this within the first thirty minutes after the confirmation of the journal. In the Senate, the president may not recognize any Senator for the purpose of asking unanimous consent to vote on the passage of any local bill or resolution.[41]

Voting: When the time arrives for the body to vote on a local bill, the member who introduced it normally will address the group, stating that it deals with a purely local matter and requesting support as a matter of legislative courtesy. In actual practice, to conserve time, both houses often permit a number of local bills to be voted on at once. This practice is apparently carried on by the use of a separate local bill calendar upon which uncontested local legislation may be placed.

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[35] *Smith v. McMichael*, 203 Ga. 74, 45 S.E. 2d 431 (1947); *Smith v. City Council of Augusta*, 203 Ga. 511, 47 S.E. 2d 582 (1948).

[36] *Smith v. McMichael*, footnote 35, *supra.*

[37] *Bracewell v. Warnock*, 208 Ga. 388, 67 S.E. 2d 114 (1951).

[38] *Gay v. Laurens County*, 213 Ga. 518, 100 S.E. 2d 271 (1957).

[39] *Walker Electric Co. v. Walton*, 203 Ga. 246, 46 S.E. 2d 184 (1948); *Swiney v. City of Forest Park*, 211 Ga. 154, 84 S.E. 2d 573 (1954).

[40] Ga. Const. art. III, sec. VII, par. VII; Ga. Code Ann. sec. 2-1907.

[41] Senate Rule 103; House Rule 114.

Most local bills which have the support of two-thirds of the Representatives and Senators whose districts encompass any city or county affected by the local act are passed in each house without opposition under the tradition of "local courtesy."[42] The idea behind local courtesy is that when a legislative delegation from a city or county agree on the need for a legislative enactment to affect that city or county only, the other house members will defer to their judgment and support the bill. Of course, other legislators expect the same courtesy when their local bills are under consideration.

It should be noted, however, that local courtesy is a custom of the General Assembly, and is not provided for by the rules of either house. Hence, it cannot be enforced should legislators decide to challenge a local act (as is often the case for local acts affecting Atlanta and Fulton County).

RESOLUTIONS

A resolution is another device that formally expresses the actions of either house or the two houses concurrently. Resolutions are either: (1) *simple* (requiring passage by only one house) or (2) *joint* (requiring passage by both houses). A joint resolution is identified by the phrase, "Be it resolved by the General Assembly."

SIMPLE RESOLUTIONS

Simple resolutions are typically of several types:

(1) privileged resolutions which express sympathy, appreciation, congratulation, or commendation;
(2) resolutions expressing the opinion of the body on a particular issue;
(3) resolution authorizing creation of special study committees;
(4) resolutions electing members or citizens to various boards and commissions to which that house is entitled appointing authority;

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[42] The two-thirds requirement traces to rules of the Senate County and Urban Affairs Committee and the House Subcommittee on Local Legislation for such support if a local bill is to receive a favorable report from either committee. Both houses allow a local delegation from a city or county to set a different figure, if they choose to, which the committees will then abide by.

(5) resolutions inviting some individual to speak to that body;

(6) housekeeping resolutions authorizing appointment, employment, and compensation of aides and staff for officials and committees of that body;

(7) resolutions adopting or amending the rules of the particular house in which they are introduced; and

(8) resolutions formally notifying the other house relative to the convening of that body.

Simple resolutions do not have the effect of law, and are typically read only once before adoption by the particular house. Neither House nor Senate rules require assignment of simple resolutions to standing committees, except for resolutions to suspend, change, or add to the rules once adopted at the beginning of the session. Although initial adoption of the rules of procedure for each house at a session's beginning requires only a majority of a quorum (with no prior committee assignment or recommendation), any subsequent resolutions that propose changes in the rules must be assigned to the Rules Committee of that house and be adopted by two-thirds of the members voting (if a majority of the members elected to that house).[43] While practice varies between the two houses, certain other simple resolutions are customarily referred to committee, including those to establish interim study committees and many of those expressing an opinion held by a house.

Housekeeping Resolutions: Of special note is the housekeeping resolution, as it is commonly termed, adopted by each house at the beginning of every biennium. This resolution is introduced the first day of the session, without reference to committee and without the concurrence of the other house. It details and prescribes the number of aides, assistants, secretaries, and other legislative staff to be appointed for that house, its officers and party leaders, and its committees, along with specifying the compensation for these staff members.

Typically the housekeeping resolution provides authorization for: (1) designated committees to meet following adjournment of the session to perform necessary administrative functions; (2) the presiding officer to appoint interim legislative study committees and prescribe the time during which they may function; (3) the presiding officer to designate standing committees or subcommittees to function during the interim between sessions; and (4) designated legislative officers to keep their offices open and retain the staff and personnel deemed necessary during any period of adjournment during or following a session, and further entitling these officers to function as a *committee of one* for each day spent on official

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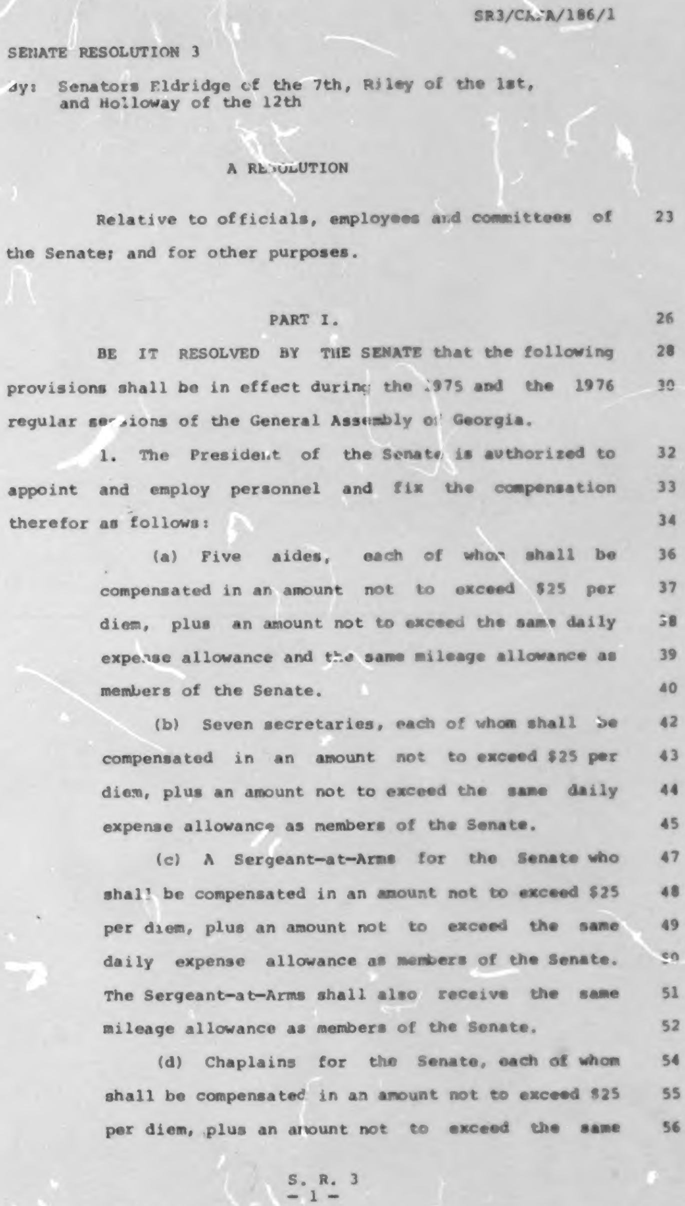
[43] Senate Rule 39; House Rule 40.



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SENATE RESOLUTION 3

By: Senators Eldridge of the 7th, Riley of the 1st,
and Holloway of the 12th

A RESOLUTION

Relative to officials, employees and committees of the Senate; and for other purposes.

PART I.

BE IT RESOLVED BY THE SENATE that the following provisions shall be in effect during the 1975 and the 1976 regular sessions of the General Assembly of Georgia.

1. The President of the Senate is authorized to appoint and employ personnel and fix the compensation therefor as follows:

(a) Five aides, each of whom shall be compensated in an amount not to exceed $25 per diem, plus an amount not to exceed the same daily expense allowance and the same mileage allowance as members of the Senate.

(b) Seven secretaries, each of whom shall be compensated in an amount not to exceed $25 per diem, plus an amount not to exceed the same daily expense allowance as members of the Senate.

(c) A Sergeant-at-Arms for the Senate who shall be compensated in an amount not to exceed $25 per diem, plus an amount not to exceed the same daily expense allowance as members of the Senate. The Sergeant-at-Arms shall also receive the same mileage allowance as members of the Senate.

(d) Chaplains for the Senate, each of whom shall be compensated in an amount not to exceed $25 per diem, plus an amount not to exceed the same

S. R. 3
- 1 -

Figure 4. HOUSEKEEPING RESOLUTION

business.[44] Unless subsequently amended, provisions of a housekeeping resolution apply to a house throughout the two-year life of the legislature.

JOINT RESOLUTIONS

Joint resolutions, sometimes termed concurrent resolutions, require passage by both houses, and, depending on the intent of the legislature and the procedure used in passage, may or may not have the effect of law. Unlike the practice in Congress and some other states, no distinction is made between a joint and concurrent resolution by Georgia law or legislative rules of either house. Thus the two terms can be—and are—used interchangeably.

The decision to employ the format of a joint resolution rather than a bill is dictated in some instances by custom or the inclination of the author. The only measures for which the joint resolution is required by statute or legislative rules are those proposing constitutional amendments,[45] awarding compensation,[46] accepting bids for sale or lease of public properties under the custody of the State Properties Commission,[47] convening a joint session of the General Assembly,[48] and amending joint session rules.[49] Additionally, should a resolution be used by the General Assembly to appropriate money, it must be in the form of a joint resolution enacted in the same manner as a bill.[50]

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[44] The "committee of one" is a status, typically conferred through the housekeeping resolution, which permits a single legislative officer or member engaged in official legislative business (other than meeting as part of a standing committee or interim study committee) when the General Assembly is not in session to receive the expense, mileage, and travel allowances authorized for members of interim committees. The housekeeping resolution for the 1975-76 biennium in the House restricted this device to the Speaker, Speaker Pro Tempore, majority leader, and minority leader. The resolution for the same period in the Senate covered the President Pro Tempore, majority leader, minority leader, administration floor leader, and assistant administration floor leader. Each Senator is also authorized to function as a committee of one to carry out legislative duties within the state of Georgia for not more than twenty days each year.

[45] Ga. Const. art. XIII, sec. I, par. I; Senate Rule 210; House Rule 226.

[46] Ga. Code Ann. sec. 47-505 and 47-523; Senate Rule 223; House Rule 244.

[47] Ga. Code Ann. sec. 91-105a (1) and sec. 91-106a (d)–(g).

[48] House and Senate Joint Rule 1 and 2.

[49] House and Senate Joint Rule 18.

[50] Ga. Code Ann. sec. 47-503; Senate Rule 216; House Rule 231.

Though occasionally used for quasi-statutory matters, joint resolutions primarily:

(1) propose amendments to the State Constitution;
(2) authorize payment to persons for claims against the state (compensation resolutions);
(3) authorize land conveyances, leases, and easements in the name of the state;
(4) create legislative overview committees, joint interim study committees, and other special agencies;[51]
(5) name or rename state parks, buildings, memorial highways, roads, bridges, etc.;
(6) ratify, approve, and confirm executive orders of the governor which temporarily suspend collection of certain taxes;[52]
(7) authorize the Department of Revenue to write off uncollectable sales and use tax accounts; and
(8) authorize or direct a state agency or official to perform a certain task.[53]

Since these kinds of joint resolutions have the effect of law, they must be assigned to a standing committee and receive three readings in both houses before passage.[54] Once adopted by the two houses, they are submitted to the governor and given an act number if signed by the governor or if enacted without his signature. As with bills, joint resolutions which will have the force of law may be vetoed by the governor, excepting those proposing constitutional amendments, which do not require his signature, and, in any event, cannot be vetoed.[55] (See p. 150 of this *Hand-*

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[51] **Examples of such special state agencies created through joint resolution include the Georgia Commission for the National Bicentennial Celebration (Ga. Laws 1969, p. 1074, though later re-created by act of the legislature), the Richard B. Russell Monument Commission (Ga. Laws 1971, p. 782 and 808), and the Georgia Hall of Fame Commission (Ga. Laws 1974, p. 1636).**

[52] **Pursuant to Ga. Code Ann. sec. 40-205, the governor is authorized to suspend the collection of all or part of any taxes due the state, but only until the next meeting of the General Assembly, at which session the action is reviewed by the legislature and either ratified or rejected. The vehicle by which such ratification occurs is a joint resolution embodying the governor's executive order along with formal ratification, approval, and confirmation of that order. Because this action touches on the raising of revenue, the joint resolution must be introduced in the House.**

[53] **See, for example, Ga. Laws 1973, p. 690; 1974, p. 1457 and 1642.**

[54] **Senate Rules 118 and 120; House Rules 134 and 135.**

[55] **Ga. Const. art. V, sec. I, par. XVI; Senate Rules 188 and 212; House Rules 207 and 228.**

book for specific information on a governor's veto power over resolutions, as well as additional exemptions.)

Joint resolutions are also used for other purposes, such as (1) expressing the sympathy, appreciation, or recognition of both houses; (2) expressing an opinion shared by the two houses; (3) notifying the governor that the General Assembly has convened; (4) providing for a joint session of the General Assembly; (5) amending the rules of the legislature for meeting in joint session; and (6) setting a time and date for adjournment of the General Assembly. For these purposes, the joint resolution generally does not carry the weight of law, and thus assignment to committee, three readings, and submission to the governor are not necessary.[56] In actual practice, some of these joint resolutions are assigned to committee in one or both houses, and some are not; and some receive only one reading, while others are read on two or three occasions before passage.

As with bills, a joint resolution may be introduced in either house, unless it pertains to raising revenue or appropriating money when it must originate in the House.[57]

Joint resolutions of general application, which have the effect of law, are compiled and printed in volume I of the annual session laws, while those of local or special application are found in volume II. Simple resolutions are not included in either volume, but may be found in the published *House* or *Senate Journal* for the session at which introduced.

Compensation Resolutions: Used with respect to claims against the state, these are resolutions of special importance to the legislator. Because Georgia has not relinquished its sovereign immunity from liability for negligent or other tortious acts by its officials, employees, and agents, and because it has not given its consent to be sued, the state is not legally answerable in tort for the negligence or acts of its employees.[58] Therefore,

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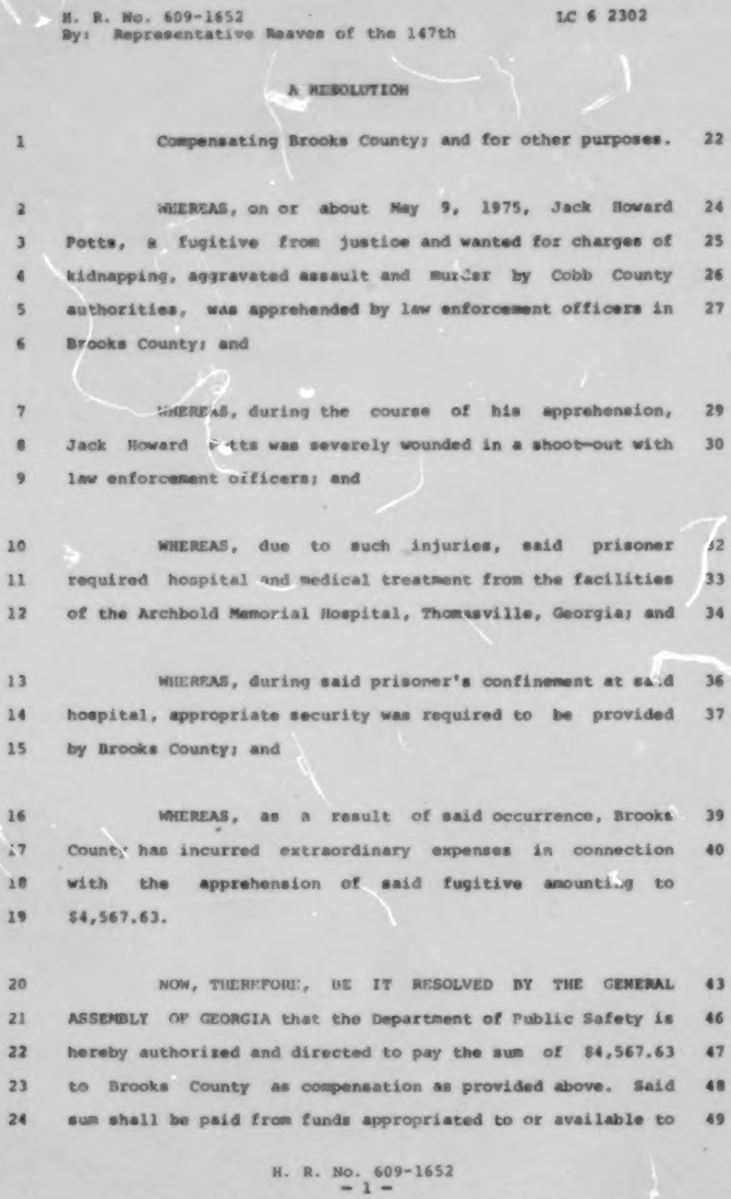
[56] Although there is no controlling Senate rule for joint resolutions which will not have the effect of law, House Rule 135 provides that, with the exception of privileged resolutions and those requesting information from any executive department, all resolutions shall be referred to the appropriate committee by the Speaker.

[57] Ga. Code Ann. sec. 47-503; Senate Rule 216; House Rule 231.

[58] *Trice, Administrator v. Wilson*, 113 Ga. App. 715 (1966); *Crowder v. Department of State Parks*, 228 Ga. 436 (1971). Also see *Southern Mining Co. v. Lowe*, 105 Ga. 352 (1898); *Western Union Telegraph Co. v. Western & Atlantic Railroad Co.*, 142 Ga. 352 (1914); *Roberts v. Barwick*, 187 Ga. 691 (1939); *Barwick v. Roberts*, 192 Ga. 783 (1941); *Florida State Hospital for the Insane v. Durham Iron Co.*, 194 Ga. 350 (1942); and others. These decisions are qualified by a 1974 constitutional amendment (Ga. Const. art. VI, sec. II, par. X) which, though retaining the principle of state immunity from suit, does allow waiver or qualification of this immunity by act of the General Assembly.



H. R. No. 609-1652 LC 6 2302

By: Representative Reaves of the 147th

A RESOLUTION

Compensating Brooks County; and for other purposes.

WHEREAS, on or about May 9, 1975, Jack Howard Potts, a fugitive from justice and wanted for charges of kidnapping, aggravated assault and murder by Cobb County authorities, was apprehended by law enforcement officers in Brooks County; and

WHEREAS, during the course of his apprehension, Jack Howard Potts was severely wounded in a shoot-out with law enforcement officers; and

WHEREAS, due to such injuries, said prisoner required hospital and medical treatment from the facilities of the Archbold Memorial Hospital, Thomasville, Georgia; and

WHEREAS, during said prisoner's confinement at said hospital, appropriate security was required to be provided by Brooks County; and

WHEREAS, as a result of said occurrence, Brooks County has incurred extraordinary expenses in connection with the apprehension of said fugitive amounting to $4,567.63.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Department of Public Safety is hereby authorized and directed to pay the sum of $4,567.63 to Brooks County as compensation as provided above. Said sum shall be paid from funds appropriated to or available to

H. R. No. 609-1652

- 1 -

Figure 5. COMPENSATION RESOLUTION

Georgia courts have held, the injured party must seek redress for such wrongs from the legislature, not from the courts. Furthermore, payment of compensation in these cases is "purely a matter of legislative grace based upon a strong moral obligation and equitable duty and not upon the assumption of legal liability."[59]

Historically, most claims against the state have arisen from accidents caused by operators of state vehicles–particularly those of the former highway department. In July 1972, however, the state of Georgia contracted for insurance coverage for its vehicles, and the number of compensation resolutions has been significantly reduced since that time. (As an example of this decrease, at the 1972 session, 127 compensation resolutions were introduced, and 82 enacted; in 1976, only 56 were introduced and 16 enacted.)

A 1974 constitutional amendment allows the General Assembly to waive or qualify the state's immunity from suit and to establish a State Court of Claims with judicial remedy for claims against the state.[60] To date, the legislature has not acted to implement the amendment so it continues as the medium through which claims against the state for injury or damage not covered by insurance are resolved.

To assist the General Assembly in this responsibility, a *Claims Advisory Board* has been established, consisting of the Secretary of State, Commissioner of Human Resources, and Commissioner of Transportation.[61] This board receives notice of claims against the state, conducts investigations, holds hearings, prepares statements of its findings, and presents its recommendations regarding the merits of each case and such compensation as should be awarded the injured party. Its policy has been to recommend reimbursement for actual and substantiated out-of-pocket expenses only. Such recommendations, however, are advisory only and are not binding on the legislature.

In addition the board can make recommendations to the legislature concerning payment of compensation, under certain conditions, to innocent persons who sustain injury or property damage, and to the dependents of innocent persons killed while attempting to aid prevention of a crime against another person, or to aid a law officer at his request.[62]

Any resolution seeking compensation or reimbursement from the state of Georgia, or any of its agencies, for a person injured or property damaged, must be introduced in the House of Representatives within the first twenty-five days of a regular session.[63] However, before the preceding November 15, a notice of the claim *must* have been filed with the Claims Advisory Board. Should the event giving rise to the claim not occur until after November 5, the notice must then be filed with the board within ten days after the occurrence.[64] Additionally, in the case of claims for compensation for damages resulting from attempts to prevent crimes, notice of the claim must have been filed with the board within eighteen months of the personal injury or death, and the incident or offense resulting in the injury or death reported to a law enforcement officer within five days of its occurrence.[65]

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[59] *Trice, Administrator v. Wilson*, 113 Ga. App. 715 (1966).

[60] Ga. Const. art. VI, sec. II, par. X.

[61] Ga. Code Ann. sec. 47-504; Senate Rule 223; House Rule 244.

[62] Ga. Code Ann. sec. 47-518–47-526

After a claim has been filed, the board must then specify in writing to the claimant what information it must have for investigatory purposes, including accident reports, affidavits, statements, receipts, etc. All such information must be provided to the board before any action of the legislature on the claim.

Thereafter, any member of the House of Representatives may introduce a compensation resolution in that body. The Speaker is required to refer it to the Appropriations Committee, and the Clerk required to send a certified copy to the chairman of the Claims Advisory Board. The board investigates the claim, holding a hearing if necessary, and then meets to take final action. The board must transmit its statement (see above) to the chairman of the Appropriations Committee by the thirtieth day of the session. The Representative who introduced the resolution is also notified of the board's actions and, if dissatisfied, can demand a hearing if one was not previously held. Although the board's recommendations are advisory and not binding, they are usually followed by the Appropriations Committee and by the House of Representatives.

GENERAL REQUIREMENTS FOR LEGISLATION

For those measures which it drafts, most general requirements would normally be handled by the Office of Legislative Counsel. But a knowledge of the requirements is essential to an understanding of the Georgia legislative process.

In January 1795, the most controversial law in the history of

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[63] Ga. Code Ann. sec. 47-505; Senate Rule 223; House Rule 231.

[64] Ga. Code Ann. sec. 47-505; Senate Rule 223.

[65] Ga. Code Ann. sec. 47-524(a).

Georgia—the infamous "Yazoo Act"—was enacted under the caption,

> An Act supplementary to an Act, entitled an Act for appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and for other purposes therein mentioned; declaring the right of this State to the unappropriated territory thereof, for the protection of the frontiers, and for other purposes.[66]

Under the patriotic language of this summary title, the body of the act proceeded to sell the greater part of the territory now comprising Alabama and Mississippi to four land companies for the incredible sum of $490,000, with most legislators being given shares in one or more of the companies. While a new legislature was subsequently elected which repealed this action, the Yazoo Land Fraud precipitated a new constitutional requirement for enacting legislation: no law can be passed which contains matter different from that expressed in the title.[67] A second constitutional prohibition—that no law can be passed which refers to more than one subject matter—is frequently attributed also to the Yazoo scandal, though in fact it was not included until the Constitution of 1861.[68]

The legislator should be cautioned that these two prohibitions—that regarding the title and multiple subject matter—have constituted the bases for numerous contests regarding the validity of various statutes passed by the General Assembly, and that the Georgia Supreme Court has ruled these requirements to be mandatory and not merely directory.[69]

MULTIPLE-SUBJECT-MATTER PROHIBITION

The constitutional requirement against multiple subject matter is designed to prevent "omnibus" bills which combine many unrelated provisions, none of which could succeed upon its own merits, with the intent of combining the votes of advocates of each.[70]

The "subject of an act" is regarded as the thing or matter forming

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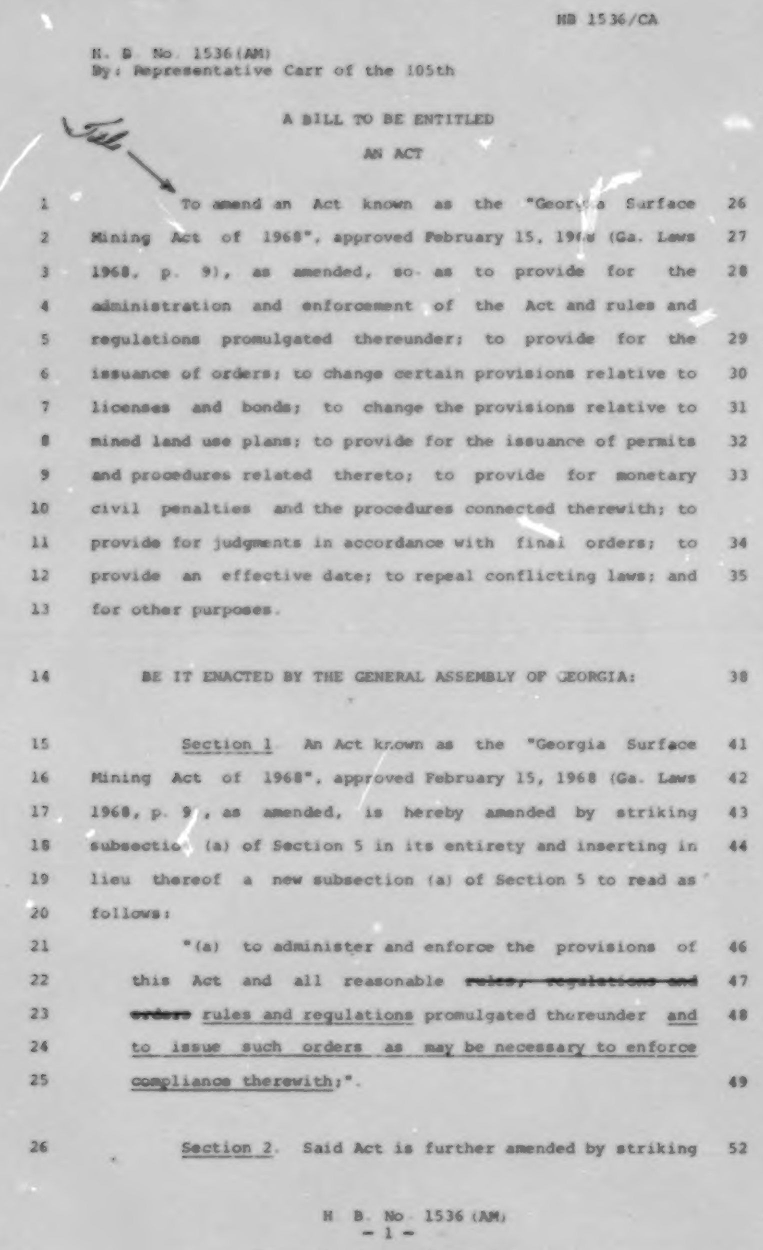
[66] McElreath, *A Treatise on the Constitution of Georgia*, p. 90.

[67] *Ibid.*, p. 93, 106.

[68] *Ibid.*, p. 133.

[69] *McCaffrey v. State*, 183 Ga. 827, 189 S.E. 825 (1937).

[70] *Camp v. Marta*, 229 Ga. 35, 38, 188 S.E. 2d 56 (1972); *Central of Ga. R. Co. v. State*, 104 Ga. 831, 846, 31 S.E. 531 (1898); *Cady v. Jardine*, 185 Ga. 9, 10, 193 S.E. 869 (1937).



H. B. No. 1536 (AM)
By: Representative Carr of the 105th

A BILL TO BE ENTITLED
AN ACT

Title

To amend an Act known as the "Georgia Surface Mining Act of 1968", approved February 15, 1968 (Ga. Laws 1968, p. 9), as amended, so as to provide for the administration and enforcement of the Act and rules and regulations promulgated thereunder; to provide for the issuance of orders; to change certain provisions relative to licenses and bonds; to change the provisions relative to mined land use plans; to provide for the issuance of permits and procedures related thereto; to provide for monetary civil penalties and the procedures connected therewith; to provide for judgments in accordance with final orders; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. An Act known as the "Georgia Surface Mining Act of 1968", approved February 15, 1968 (Ga. Laws 1968, p. 9), as amended, is hereby amended by striking subsection (a) of Section 5 in its entirety and inserting in lieu thereof a new subsection (a) of Section 5 to read as follows:

"(a) to administer and enforce the provisions of this Act and all reasonable ~~rules, regulations and orders~~ rules and regulations promulgated thereunder and to issue such orders as may be necessary to enforce compliance therewith;".

Section 2. Said Act is further amended by striking

Figure 6. TITLE OF BILL

the ground work of the act, and is not synonymous with "provision."[71] The courts tend to give a broad meaning to the term "subject matter" so as to allow the legislature to include in one act all matters having a logical or natural connection.[72]

To contain multiple subject matter then, an act must embrace two or more dissimilar and discordant subjects that in no reasonable way can be considered as having any logical connection with or to each other.[73] Examples of laws held invalid because of multiple subject matter include an act which attempted to amend the charters of two separate and distinct municipal corporations,[74] and an act to authorize the construction of telephone lines in the state, while providing criminal penalties for divulging any private messages by any persons connected with telephone companies.[75]

On the other hand, the court has upheld an act levying excise taxes against malt beverages and wine,[76] an act removing the clerk of superior court and tax commissioner of one county from the fee system,[77] and, more recently, the Executive Reorganization Act of 1972, which affected numerous different agencies in the executive branch.[78]

SUBJECT MATTER NOTED IN A BILL'S TITLE

Required by the Constitution, a "title" (formerly also called a "caption") is the formal introduction that summarizes the substantive provisions of a bill. It prefaces the main body of a bill, and always precedes the phrase, "Be it Enacted by the General Assembly of Georgia."

Georgia's Constitution of 1798 was the first state constitution to formally dictate that the body of an act cannot contain matter not mentioned in the title of that act.[79] Not only is the title a safeguard against covert and surprise legislation, but it is a practical device to notify legislators and the public of the scope and content of proposed legislation.

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[71] *Crews v. Cook*, 220 Ga. 479, 139 S.E. 2d 490 (1964); *Capitol Distributing Co. v. Redwine*, 206 Ga. 447, 57 S.E. 2d 578 (1950).

[72] *Ibid.*, *Hines v. Etheridge*, 173 Ga. 870, 162 S.E. 113 (1931).

[73] *Ibid.*

[74] *Schneider v. City of Folkston*, 207 Ga. 434, 62 S.E. 2d 177 (1950).

[75] *W. U. Tel. Co. v. Cooledge*, 86 Ga. 104, 12 S.E. 264 (1890).

[76] *Capitol Dist. Co. v. Redwine*, footnote 71, *supra*.

[77] *Gainer v. Ellis*, 226 Ga. 79, 172 S.E. 2d 608 (1970).

[78] *Carter v. Burson*, 230 Ga. 511, 198 S.E. 2d 151 (1973).

[79] McElreath, *A Treatise on the Constitution of Georgia*, p. 93.

Additionally, the title is used for the first two readings of a bill in each house, with the full language used only on the third reading.[80]

Examples of contested laws held invalid because of discrepancies between the title and body include a statute, the title of which enumerated particular land lots, while its body attempted to deal with other lots;[81] a statute, the title of which referred only to civil cases, with provisions purporting to apply to criminal cases as well;[82] and recently, a statute whose title provided for campaign financing disclosures for certain state offices, but whose body included all county and municipal elected officials.[83]

In the majority of cases, the court appears to have been fairly liberal in its interpretations and has stated that the Constitution does not require that the substance of the entire act should be set forth in the title, or that every detail stated in the body be mentioned in the title, or that the title contain a synopsis of the law. Rather, a title need only indicate the general object and subject matter to be dealt with, and be broad enough to protect people against covert or surprise legislation.[84]

At an early date, legislators initiated the practice of adding the words "and for other purposes" at the end of a bill's title, in hopes that this broad phrase might sufficiently cover provisions in the act which the title might not otherwise specify. And in some early cases, the court has upheld portions of an act not indicated in the title, by virtue of this general clause. For example, a statute, the title of which referred only to licensing the sale of intoxicating liquors, but which possessed provisions making the sale of such liquors without a license a misdemeanor, was held invalid.[85] However, a similar statute was later sustained by the court on the sole ground that its title contained the phrase, "and for other purposes."[86]

Obviously, there are limits on using the phrase in a bill's title. But the general attitude of the court has been that provisions which are germane to general subject matter embraced in the title and designed to carry into effect the purposes for which the act was passed, may be constitu-

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80. Ga. Const. art. III, sec. VII, par. VII.

81. *Bray v. City of East Point*, 203 Ga. 315, 46 S.E. 2d 257 (1948).

82. *Cade v. State*, 207 Ga. 135, 60 S.E. 2d 763 (1950).

83. *Fortson v. Weeks*, 232 Ga. 472, 208 S.E. 2d 68 (1974).

84. *Bray v. City of East Point*, 203 Ga. 315, 46 S.E. 2d 257 (1948); *Rich v. State*, 237 Ga. 291, 299 (1976).

85. *Sasser v. State*, 99 Ga. 54, 25 S.E. 619 (1896).

86. *Burns v. State*, 104 Ga. 544, 30 S.E. 815 (1898).

tionally included in the body of an act, though not referred to in the title except by "and for other purposes."[87]

If a bill or resolution contains matter different from that expressed in the title, or contains provisions in conflict with the title, only that part containing such material will be declared void (unless this material is so integral to the whole act that it is not severable).[88] The question has also arisen as to whether a statute was unconstitutional because its title mentioned more items than were covered in its body. The Georgia Supreme Court has held this type of statute valid.[89]

An examination of court cases involving statutes with either multiple-subject matter or matter in the body not mentioned in the title suggests that most occur not because of surreptitious strategy, but because of committee or floor amendments. Material may be added to or deleted from a bill during the legislative deliberations, and, through simple oversight, the title is not changed to reflect it. At this stage it is principally the responsibility of a bill's author to consider whether proposed changes are germane to the bill's subject matter, and, following all amendments, whether the bill's title accurately reflects provisions within the measure.

AMENDING AND REPEALING STATUTES

Another constitutional provision for insuring that legislators understand legislation upon which they must act is the declaration that: "no law or section of the Code shall be amended or repealed by mere reference to its title, or to the number of the section of the Code, but the amending or repealing act shall distinctly describe the law to be amended or repealed as well as the alteration to be made."[90] Refusing to abolish the concept of repeal by implication, the Georgia Supreme Court has repeatedly held that this provision applies only in instances where an amending or repealing statute purports to *expressly* repeal or amend a former statute.[91]

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87. *Millhollan v. State*, 221 Ga. 165, 143 S.E. 2d 730 (1965); *Mikell v. Mikell*, 219 Ga. 550, 134 S.E. 2d 630 (1964); *Collins v. State*, 206 Ga. 95, 55 S.E. 2d 599 (1949); *Black v. Jones*, 190 Ga. 95, 8 S.E. 2d 385 (1946); *Cady v. Jardine*, 185 Ga. 9, 193 S.E. 869 (1937).

88. *City of Savannah v. State*, 4 Ga. 26 (1848). See also *Greer v. State*, 233 Ga. 667, 212 S.E. 836 (1975); *Sams v. Olah*, 225 Ga. 497, 169 S.E. 2d 790 (1969); and foonote 83, *supra*.

89. *Hill v. Perkins*, 218 Ga. 354, 127 S.E. 2d 909 (1962). See also footnote 83, *supra*.

90. Ga. Const. art. III, sec. VII, par. XVI.

91. See e.g., *Edalgo v. Southern Ry.*, 129 Ga. 258, 58 S.E. 846 (1907); *Town of McIntyre v. Scott*, 191 Ga. 473, 12 S.E. 2d 883 (1941); *Fortson v. Fortson*, 200 Ga. 116, 35 S.E. 2d 896 (1945).

Such an approach by the court has the rather peculiar effect of rendering the requirement inapplicable in those confusing instances which it could have remedied, *i.e.*, in cases where the amending act does not expressly refer to an earlier statute which it will modify.

Even where express repeal is attempted, however, this requirement of the Constitution has apparently received a rather liberal interpretation. For example, the requirement has been held satisfied where the amending act included in only its caption the title of the statute to be amended.[92] The court also has sustained an amending statute after considering its title and it as a whole, although the amended statute was not specifically mentioned. In the latter case, the court said of the constitutional requirement: "One, if not the only, object of this provision is to put every one, legislators and the public who might be affected, on guard as to all matters connected with the subject matter."[93]

REPEALS BY IMPLICATION

When the legislature enacts a measure which conflicts with, but does not expressly repeal or amend, existing law, the courts generally presume that (1) it acted with full knowledge of existing law; (2) the new act must be construed in relation to other statutes of which it will become a part; and (3) statutes relating to the same subject must be harmonized wherever possible.[94] Although expressing disfavor with the practice, the courts will acknowledge an implicit repeal of former law where such statutes cannot be harmonized if (1) a later statute is so irreconcilable with an earlier statute that the two cannot stand together, and (2) the later statute is manifestly intended to cover the same subject matter and to operate as a substitute for the earlier statute.[95]

In instances of conflict among statutes, the courts regard the latest expression of the General Assembly on a subject as controlling.[96] This rule applies not only to acts passed at different sessions, but those passed at the same session, in which event that act signed last by the governor will control.[97] The same principle applies if two provisions within a single act conflict, with that provision last in position standing, as it is presumed to be the last expression of legislative will.[98]

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[92] *Tison v. City of Doerun*, 155 Ga. 367, 116 S.E. 615 (1923).

[93] *Ragans v. Ragans*, 200 Ga. 890, 892, 39 S.E. 2d 162, 164 (1946).

[94] *Poteat v. Butler*, 231 Ga. 187, 200 S.E. 2d 741 (1973); *West v. Forehand*, 128 Ga. App. 124, 195 S.E. 2d 777 (1973); *Plantation Pipe Line Co. v. City of Bremen*, 227 Ga. 1, 178 S.E. 2d 868 (1970); *Buice v. Dixon*, 223 Ga. 645, 157 S.E. 2d 481 (1967).

[95] *Jones v. Hartford Acc. & Indem. Co.*, 132 Ga. App. 130, 207 S.E. 2d 613 (1974); *Board of Public Education and Orphanage for Bibb County v. Zimmerman*, 231 Ga. 562, 203 S.E. 2d 178 (1974); *Bragg v. Bragg*, 225 Ga. 494, 170 S.E. 2d 29 (1969).

The attitude of the court makes it important for a legislator to consider, when proposing a bill, whether there is an existing statute which should be expressly repealed in the new act.

LEGISLATIVE INTENT AND JUDICIAL INTERPRETATION

Members of the General Assembly are constantly exhorted when drafting legislation to use clear, precise, and unambiguous language which makes their intention correctly and easily discoverable.[99] Toward this end, the attention of the legislator is directed to the many commonly-used words and phrases which have been ascribed statutory or judicial definition, such as "may," "shall," "reasonable," "adequate," "as soon as possible," and "anything in this act to the contrary notwithstanding."[100] Even if the language should be awkward or unusual, the legislative intent manifested by a statute must be ascertained and enforced as law, unless absurd results not intended by the legislature would occur. Grammatical errors may not be used as the basis for invalidating an act. A transposition of words and clauses, or interposition of punctuation may be resorted to when the sentence or clause is without meaning as it stands.[101]

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96. *Tomblin v. S. S. Kresge Co.*, 132 Ga. App. 212, 207 S.E. 2d 693 (1974); *Burgamy v. State*, 114 Ga. 852, 40 S.E. 993 (1902); *Puckett v. Young*, 112 Ga. 578, 583, 37 S.E. 880 (1900).

97. *County of Butts v. Straham* 151 Ga. 417, 419, 107 S.E. 163 (1921).

98. *Stansell v. Fowler*, 113 Ga. App. 377, 147 S.E. 2d 793 (1966); *Tyler v. Huiet*, 199 Ga. 845, 850, 36 S.E. 2d 358 (1945). However, Georgia courts are obligated to reconcile apparent conflicts between different sections of the same statute to make them consistent with one another, if possible. See *Undercofler v. Capitol Auto Co.*, 111 Ga. App. 709, 143 S.E. 2d 206 (1965).

99. *Bedingfield v. Parkerson*, 212 Ga. 654, 94 S.E. 2d 714 (1956); *Board of Tax Assessors v. Catledge*, 173 Ga. 656, 658, 160 S.E. 909 (1931); *Howell v. State*, 164 Ga. 204, 138 S.E. 206 (1927). For an interesting judicial observation on the language of statutes, see concurring opinion, *Fortson v. Weeks*, 232 Ga. 472, 492, 208 S.E. 2d 68 (1974).

100. See Ga. Code Ann. chap. 102-1 and notes.

101. *Fortson v. Weeks*, footnote 83, *supra.*; *City of Jesup v. Bennett*, 226 Ga. 606, 176 S.E. 2d 81 (1970); *Williams v. Linn*, 108 Ga. App. 629, 133 S.E. 2d 892; *Fulton Co. Federal Savings & Loan Association v. Simmons*, 210 Ga. 621, 624, 82 S.E. 2d 16 (1954).

A general rule for avoiding judicial construction[102] of legislative enactments is that the use of plain and unequivocal language obviates any *necessity* for judicial interpretation.[103] If the language used in drafting a statute is clear and not susceptible to two constructions, the courts cannot construe the act according to the supposed intention of the legislature, but must let the act speak for itself.[104] Furthermore, if a statute is unambiguous, its wisdom or expediency is of no legitimate concern to the judiciary.[105]

However, should interpretation of the meaning or validity of any statute become necessary–due to ambiguous wording, vagueness, uncertain legislative intent, conflict with other laws, questionable constitutionality, or for other reason–the Constitution imposes upon the courts sole responsibility for construction of statutes.[106] It should be noted that this responsibility lies with the judge or judges, and is not a matter for determination by a jury.[107]

The Georgia Code stipulates that when construing statutory enactments, the courts must look diligently for the intention of the General Assembly in passing them, "keeping in view, at all times, the old law, the evil, and the remedy."[108] Therefore, a basic rule of construction used by the courts is to carry legislative intent and purpose into effect if that intent is ascertainable and within constitutional limits.[109] Such intent should emanate from the language of the statute, hence the exhortations for plain and unequivocal language.

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[102] "Judicial construction" refers to the process whereby courts analyze, construe, interpret, define, and explain a statute (either in whole or part)–both alone and in conjunction with other laws and court decisions–as well as determining the validity or invalidity of statutes.

[103] *Seaboard Coast Line R. Co. v. Blackmon*, 129 Ga. App. 342, 199 S.E. 2d 581 (1973); *City of Jesup v. Bennett*, 226 Ga. 606, 176 S.E. 2d 81 (1970); *Stone Mountain Memorial Association v. Herrington*, 225 Ga. 746, 171 S.E. 2d 521 (1969).

[104] *Fenster v. Gulf States Ceramic*, 124 Ga. App. 102, 182 S.E. 2d 905 (1971); reversed 228 Ga. 400, 185 S.E. 2d 801; vacated 125 Ga. App. 275, 187 S.E. 2d 340 (1972).

[105] *City of Calhoun v. N. Ga. Elec. Membership Corp.*, 233 Ga. 759, 213 S.E. 2d 596 (1975); *Blackmon v. DeKalb Pipeline Co., Inc.*, 127 Ga. App. 395, 193 S.E. 2d 635 (1972); *Frong v. Harper*, 220 Ga. 582, 140 S.E. 2d 844 (1965).

[106] *Modern Homes Const. Co. v. Burke*, 219 Ga. 710, 135 S.E. 2d 383 (1964); *Northside Manor, Inc. v. Vann*, 219 Ga. 298, 133 S.E. 2d 32 (1963). Also see *Douglas County v. Abercrombie*, 226 Ga. 39, 172 S.E. 2d 419 (1970); *Thompson v. Talmadge*, 201 Ga. 867, 41 S.E. 2d 883 (1947).

[107] *Crosby Aeromarine, Inc. v. Hyde*, 115 Ga. App. 836, 156 S.E. 2d 106 (1967).

[108] *Wall v. Youmans*, 223 Ga. 191, 154 S.E. 2d 191 (1967); *Seaboard Coast Line R. Co. v. Blackmon*, 129 Ga. App. 342, 199 S.E. 2d 581 (1973). Also see concurring opinion, *Fortson v. Weeks*, footnote 83, *supra*.

On innumerable occasions the court has ruled that legislative intent must prevail over literal meaning of words, if the two appear in conflict. Unfortunately, despite the general rule that plain and unequivocal language will preclude any need for judicial interpretation, exceptions occur where an act uses words whose meanings are generally accepted, yet literal application of them would defeat the purpose of the legislation. In these instances, the responsibility of the court is to first ascertain legislative intent in enacting a law, and then to give the statute that construction which will effect this purpose, even if it is necessary to disregard some words within the statute.[110]

Where judicial construction is necessary to determine legislative intent, the court is not limited in the sources to which it may turn for enlightenment.[111] For instance, it may inquire into the history of an act,[112] or the surrounding facts and circumstances which influenced its passage.[113] Events occurring during the progress of a statute's enactment, as disclosed by the official House and Senate *Journals* may be reviewed in seeking to find the intent of the legislature.[114] However, Georgia courts

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109. *State Bar of Georgia v. Haas*, 133 Ga. App. 311, 211 S.E. 2d 161 (1974); *Poteat v. Butler*, 231 Ga. 187, 200 S.E. 2d 741 (1973); *Plantation Pipe Line Co. v. City of Bremen*, 227 Ga. 1, 178 S.E. 2d 868 (1970). Also see Ops. Att'y Gen. 21, 23 (1971).

110. *Jones v. City of College Park*, 223 Ga. 778, 158 S.E. 2d 384 (1967); *State v. Livingston*, 222 Ga. 441, 150 S.E. 2d 648 (1966); *Southern Ry. Co. v. Brooks*, 112 Ga. App. 324, 145 S.E. 2d 76 (1965).

111. *Moore v. Robinson*, 206 Ga. 27, 40, 55 S.E. 2d 711 (1949); *Ga., Fla., & Ala. Ry. Co. v. Sasser*, 4 Ga. App. 285, 61 S.E. 505 (1908).

112. *International Minerals & Chemical Corp. v. Bledsoe*, 126 Ga. App. 243, 190 S.E. 2d 572 (1972); *Wilen Mfg. Co. v. Standard Products Co.*, 409 F. 2d 56 (C.A. Ga.) (1969); *Sharpe v. Lowe*, 214 Ga. 513, 106 S.E. 2d 28 (1958).

113. *Chanin v. Bibb County*, and *Blackmon v. Chanin*, 234 Ga. 282, 288, 216 S.E. 2d 250 (1975); *Barton v. Atkinson, 228 Ga. 733, 187 S.E. 2d 835 (1972); Mayor and Aldermen of Savannah v. State*, 4 Ga. 26 (1848).

114. *Sharpe v. Lowe*, 214 Ga. 513, 106 S.E. 2d 28 (1958); *Stanley v. Sims*, 185 Ga. 518, 195 S.E. 439 (1938). However, neither the *Journals* nor any other extrinsic evidence may be used to impeach the validity of a bill to show that the bill was not enacted in accordance to constitutional requirements. A duly enrolled act, authenticated by the presiding officers of both houses of the General Assembly, approved by the Governor, and deposited with the Secretary of State as an existing law, is conclusively presumed to have been enacted in accordance with constitutional requirements, and no evidence to the contrary will be considered by the courts. Reasons for

have held that the testimony of members of the legislature—even the bill's author—is inadmissible to show legislative intent.[115] While conceding that the opinions of members of the General Assembly which passed an act might be valuable and constructive in interpreting it and arriving at legislative intent, the courts have nevertheless viewed such sources as both improper and impractical.[116] Not only is there the probability that legislators would differ as to what the act meant, but also the possibility that they had varying reasons for voting for the bill in its final form.[117] Allowing such testimony, it is suggested, would be tantamount to allowing members of the legislative branch to perform a judicial function. Rather than inquire into what was in the mind(s) of the author(s) of a law, the courts have said that proper judicial inquiry is into what the legislature intended when it enacted a statute.[118]

While testimony of a legislator is inadmissible for showing legislative intent (though occasionally it has been allowed regarding the history of a law's passage), expressions of legislative opinion through resolutions may be looked at by the courts in determining intent for passing a certain

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this conclusive presumption include: (1) the respect due a co-equal and independent branch of government; (2) the great confusion if courts were permitted or called upon to conduct an independent inquiry as to whether constitutional requirements had been complied with on a bill. *Williams v. MacFeeley*, 186 Ga. 145, 197 S.E. 225 (1938). The only exception to this "enrolled bill rule" appears to be the matter of notice of advertisement for local bills. *Capitol Distributing Co. v. Redwine*, 206 Ga. 477, 57 S.E. 2d 578 (1950). Relatedly, if in the exercise of its power to enact laws, the General Assembly fails to observe certain rules of internal procedure, the courts are not authorized to review such actions. *Thompson v. Talmadge*, 201 Ga. 867, 41 S.E. 2d 883 (1947).

[115] *Southern Railway Co. v. A. O. Smith*, 134 Ga. App. 219, 213 S.E. 2d 903 (1975); *McLarty v. Board of Regents*, 231 Ga. 22, 200 S.E. 2d 117 (1973); *Stewart v. Atlanta Beef Co.*, 93 Ga. 12, 18 S.E. 981 (1893). Also see *Friedman v. U.S.*, 364 F. Supp. 484 (D.C. Ga., 1973). In *Townsend v. Yeoumans*, 301 U.S. 441 (1937), the U.S. Supreme Court ruled that the trial court's presumption—that the Georgia General Assembly, in enacting a statute, knew the facts relative to the needs and problems of the tobacco market—cannot be overthrown by the testimony of individual legislators.

[116] *Southern Rwy. Co. v. A. O. Smith Corp., supra.*; *Stewart v. Atlanta Beef Co., supra.*

[117] *McLarty v. Board of Regents*, Transcript of Proceedings, Clarke County [Georgia] Superior Court (March 10, 1973), p. 60.

[118] *Ga. Railroad & Banking Co. v. Wright*, 125 Ga. 589, 54 S.E. 52 (1906); *Keener v. State*, 18 Ga. 194, 217 (1855).

act,[119] as may also be subsequent acts of the General Assembly on the same subject.[120]

Not uncommonly, an enactment of the General Assembly will contain a legislative declaration of fact, purpose, or intent, as a justification for the act, as well as a statement such as, "This Act, being for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes hereof." However, the effect of such provisions on the court appears to be advisory only (though judicial notice may be accorded these declarations).[121] For instance, while the General Assembly stated that one particular statute was an exercise of the state's "police powers," the courts held the validity of this declaration, in reality, a question for the judiciary.[122] The court also disregarded the express provision within an act that an authority created by it would exercise "governmental functions," holding that the General Assembly cannot preclude the court by a legislative interpretation of its own act.[123]

The courts may turn to officials of those executive agencies which are involved in administering a particular law in question when attempting to determine legislative intent. Although the interpretation given a statute by these officials may be considered persuasive by the court, the ultimate responsibility for construction and interpretation rests with the judiciary.[124]

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[119] However, see *Martin v. Baldwin*, 215 Ga. 293, 110 S.E. 2d 344 (1959), where the court viewed such a resolution as an unconstitutional attempt to perform judicial functions by construing a statute.

[120] *Carter v. Oxford*, 102 Ga. App. 762, 118 S.E. 2d 216; affirmed 216 Ga. 821, 120 S.E. 2d 298 (1961); *Price v. State*, 76 Ga. App. 108, 45 S.E. 2d 84 (1947); *Wingfield v. Kutres*, 136 Ga. 345, 71 S.E. 474 (1911). The court, however, has ruled that one legislature has no power to declare intent of a prior General Assembly in enacting a law, since that would be a legislative attempt to perform a judicial function by construing a law. *Road Builders, Inc. of Tenn. v. Hawes*, 228 Ga. 608, 187 S.E. 2d 287 (1972).

[121] See, for example, *Thompson v. Eastern Air Lines*, 200 Ga. 216, 36 S.E. 2d 675 (1946); *Georgia Penitentiary Co. No. 2 v. Nelms*, 65 Ga. 67 (1880). However, see *Calhoun v. McLendon*, 42 Ga. 405 (1871). Also, see *Pearle Optical of Monroeville, Inc. v. Ga. State Board of Examiners in Optometry*, 219 Ga. 364, 133 S.E. 2d 374 (1963); in *City of Calhoun v. N. Ga. Elec. Mem. Corp.*, 233 Ga. 759, 213 S.E. 2d 596 (1975), the court took judicial notice of legislative declarations of facts and intent.

[122] *Smith v. City of Atlanta*, 161 Ga. 769, 779, 132 S.E. 66 (1925). However, see *Pye v. State Highway Dept.*, 226 Ga. 389, 175 S.E. 2d 510 (1970); *Rives v. Atlanta Newspapers, Inc.*, 220 Ga. 485, 139 S.E. 2d 395 (1964); *Douglas County v. Abercrombie*, 226 Ga. 39, 172 S.E. 2d 419 (1970); *Cox v. General Elec. Co.*, 211 Ga. 286, 85 S.E. 2d 514 (1955).

[123] *Sheffield v. State School Building Authority*, 208 Ga. 575, 68 S.E. 2d 590 (1952).

CONSTITUTIONALITY OF STATUTES

The Constitution of Georgia provides that "Legislative acts in violation of this Constitution, or the Constitution of the United States are void, and the Judiciary shall so declare them."[125] The courts, however, generally entertain a strong presumption that a statute is constitutional, assuming that the General Assembly was conscious of constitutional questions at the time of enactment.[126] Thus, legislative enactments are presumed without constitutional defect by the courts, with the burden of proof placed on those who would suggest otherwise.[127] Furthermore, a long-established principle of judicial interpretation is that the authority of the courts to declare acts of the legislature void should be exercised with great caution and restraint, and should not be resorted to except in clear and urgent cases.[128]

For the courts to consider a constitutional challenge to a statute or provision, the attack must be levied by a person whose interests or rights are affected by the statute.[129] The courts require strict adherence to the rule that any attack on the constitutionality of an act, in whole or part, be stated in clear, definite, and specific terms, noting with fair precision: (1) the statute or parts of a statute which are being challenged; (2) the provision of the Constitution which is presumably violated; and (3) the basis for claiming the statute offends the Constitution.[130] Also, questions of constitutionality must be raised in the lower trial court (usually the superior court) and distinctly passed on by the trial judge. Appellate courts in Georgia will not rule on constitutional attacks against a statute which are raised for the first time in an appeal from a lower court ruling.[131]

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[124] *Mousetrap of Atlanta, Inc. v. Blackmon*, 129 Ga. App. 805, 201 S.E. 2d 330 (1973); *Mason v. Service Loan & Finance Co.*, 128 Ga. App. 828, 198 S.E. 2d 391 (1973); *Belton v. Columbus Finance & Thrift Co.*, 127 Ga. App. 770, 195 S.E. 2d 195 (1972); *Woodford v. Kinney Shoe Corp.*, 369 F. Supp. 911 (D.C. Ga.) (1973).

[125] Ga. Const. art I, sec. IV, par. II.

[126] *Buice v. Dixon*, 223 Ga. 645, 157 S.E. 2d 481 (1967); *Robitzsch v. State*, 189 Ga. 637, 7 S.E. 2d 387 (1940); *Mayes v. Daniel*, 186 Ga. 345, 198 S.E. 535 (1938). Furthermore, the court will not attribute to members of the General Assembly a purpose to circumvent provisions of the State Constitution. *McLucas v. State Bridge Bldg. Authority*, 210 Ga. 1, 77 S.E. 2d 531 (1953).

[127] *Petty v. Hospital Authority of Douglas Co.*, 233 Ga. 109, 210 S.E. 2d 317 (1974); *O'Leary v. Smith*, 119 Ga. App. 762, 168 S.E. 2d 886 (1969); *Jones v. City of College Park*, 223 Ga. 778, 158 S.E. 2d 384 (1967); *Adams v. Ray*, 215 Ga. 656, 113 S.E. 2d 100 (1960).

[128] *City of Calhoun v. N. Ga. Elec. Memb. Corp.*, 233 Ga. 759, 213 S.E. 2d 596 (1975); *Kirton v. Biggers*, 232 Ga. 223, 206 S.E. 2d 33 (1974); *Black v. Blanchard*, 227 Ga. 167, 179 S.E. 2d 228 (1971); *Southern Ry. Co. v. Brooks*, 112 Ga. App. 324, 145 S.E. 2d 76 (1965). Nevertheless, when a statute is clearly in violation of the Constitution, the Supreme Court has a duty to so determine–irrespective of the consequences. *Calhoun County v. Early County*, 205 Ga. 169, 52 S.E. 2d 854 (1949).

[129] *Bryant v. Prior Tire Co.*, 230 Ga. 137, 196 S.E. 2d 14 (1973); *Northeast Factor & Discount Co., Inc. v. Jackson*, 223 Ga. 709, 711, 157 S.E. 2d 731 (1967); *Barge v. Camp*, 209 Ga. 38, 70 S.E. 2d 360 (1952). Georgia courts will not rule on

Further evidencing the solemnity with which the courts view their authority to declare acts of the legislative branch unconstitutional, even if a challenge is properly raised, the court will avoid passing on a statute's constitutionality where the case can be disposed of on other grounds.[132]

SEVERABILITY OF UNCONSTITUTIONAL PROVISIONS WITHIN ACTS

A statute unconstitutional or invalid in part is not necessarily void in its entirety. The courts will dismiss an attack that an entire statute is unconstitutional where some portions of it can be found constitutional.[133] And although an entire act may be adjudged unconstitutional, there are certain instances where the court will partially invalidate an act,

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the constitutionality of a law in the abstract. To attack the validity of a law, a petitioner must: (1) be within the class of persons whose rights are adversely affected by the statute, or (2) have suffered harm or stand to suffer harm by the mere presence of the statute upon the books. *Wilson Foundation v. Bell*, 223 Ga. 588, 589, 157 S.E. 2d 287 (1967).

[130] *No. Ga. Finishing, Inc. v. Di-Chem Inc.*, 127 Ga. App. 593, 194 S.E. 2d 508 (1972); *Taylor v. Moultrie Tobacco Sales Board, Inc.*, 227 Ga. 384, 180 S.E. 2d 737, transferred to 127 Ga. App. 68, 183 S.E. 2d 50 (1971); *Ledford v. J. M. Muse Corp.*, 224 Ga. 617, 163 S.E. 2d 815 (1968). These requirements for sufficient particularity in attacks on an act's constitutionality are to assure that appellate courts can determine precisely what the trial court passed upon.

[131] *Walker v. Hall*, 226 Ga. 68, 172 S.E. 2d 411 (1970); *Roberts v. Roberts*, 226 Ga. 203, 173 S.E. 2d 675 (1970); *Shelton v. Housing Authority*, 122 Ga. App. 535, 177 S.E. 2d 832 (1970).

[132] *Farmer v. State* 228 Ga. 225, 184 S.E. 2d 647 (1971); *Cross v. State*, 225 Ga. 760, 171 S.E. 2d 507 (1969); *Tierce v. Davis*, 225 Ga. 574, 170 S.E. 2d 228 (1969).

[133] *Flynn v. State*, 209 Ga. 519, 74 S.E. 2d 461, appeal transferred 88 Ga. App. 52, 76 S.E. 2d 38 (1953); *Franklin v. Harper*, 205 Ga. 779, 55 S.E. 2d 221 (1949); *Krasner v. Rutledge*, 204 Ga. 380, 49 S.E. 2d 864 (1948).

regulations adopted and promulgated thereunder. Nor shall this Act be construed as repealing, preempting, modifying, or limiting the authority or functions assigned to the Department of Natural Resources, its Divisions or officials or of the Coastal Marshland Protection Committee.

Section 26. Severability. In the event any section, subsection, sentence, clause or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

Section 27. Effective Date. This Act shall become effective January 1, 1977; provided, that there shall be no requirement for the certification of private pesticide applicators prior to October 21, 1977, or such subsequent time as it becomes necessary under section 4, FIFRA and the regulations established thereunder.

Section 28. Specific Repealer. The Georgia Pesticide Use and Application Act, approved April 3, 1972 (Ga. L. 1972, p. 849), as amended, is hereby repealed in its entirety.

Section 29. General Repealer. All laws and parts of laws in conflict with this Act are hereby repealed.

Figure 7. SEVERABILITY, REPEALER,
AND EFFECTIVE DATE SECTIONS OF A BILL

striking those provisions which offend the Constitution or are otherwise invalid, while upholding the remaining provisions of the act.

The courts are generally guided by the following questions in determining whether a challenged statute must be totally or partially invalidated:

(1) Are the non-offending provisions separable from the offending?

(2) If so, can they be given separate legal effect, and are they sufficient to accomplish the legislative scheme and purpose?

(3) Does it appear that the General Assembly intended the law to stand or fall as a whole?[134]

If the court finds that the violative sections, provisions, sentences, or phrases of a legislative act can be severed without destroying the general legislative scheme, and that the legislature did not intend for the act to stand or fall as a whole, then the court will only strike the offending provisions, leaving the remainder of the act intact. If, on the other hand, the objectionable portions are so connected with the general legislative scheme that they are indispensable, then the whole statute must fall.[135]

To illustrate, the State Supreme Court ruled in similar cases involving legislative membership on agencies within the executive branch, that such membership violated the constitutional separation of power prescription. In one instance, since it was possible to remove legislative membership from the board and still leave enough members to constitute a quorum and to accomplish the purpose of the legislation, the entire act was not declared unconstitutional.[136] In the other instance, however, the court ruled that the language of the statute, and special voting requirements, showed that the intent of the General Assembly had been to create a balance on the commission between the executive and legislative branches. Since the primary legislative intent could not be carried out without legislative representation, the court ruled that the entire act must fall.[137]

The supreme court has also ruled that where the General Assembly has passed companion acts, with each part of one general legislative scheme, if one is judged unconstitutional, the companion act, though itself not violative of the Constitution, must also be considered ineffective.[138]

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[134] *Moseley v. State*, 176 Ga. 889, 169 S.E. 97 (1933); *U.S. v. Raines*, 362 U.S. 17 (1959).

[135] *Murphy v. State*, 233 Ga. 681, 682, 212 S.E. 2d 839 (1975); *Greer v. State*, 233 Ga. 667, 670, 212 S.E. 2d 836 (1975); *Fortson v. Weeks*, 232 Ga. 472, 473, 208 S.E. 2d 68 (1974); *Sams v. Olah*, 225 Ga. 497, 169 S.E. 2d 790 (1969).

[136] *Greer v. State, supra.*

[137] *Murphy v. State, supra.*

Many enactments of the General Assembly contain a *severability clause*, a legislative declaration that if any section, sentence, or provision of that act is ruled invalid or unconstitutional by the courts, it is the intent of the legislature that the remaining sections, sentences, and provisions remain in full force and effect (see example on p. 112). Though this clause is not considered binding on the courts in determining whether non-offending provisions within an act are truly separable from the offending, it does place the General Assembly on record as not intending the law to stand or fall as a whole. On a number of occasions the courts have taken judicial notice of such intent.[139]

SPECIAL REQUIREMENTS FOR LEGISLATION

In addition to the general requirements for legislation discussed in the preceding sections, several types of legislation must meet specific requirements for introduction in the General Assembly.

APPROPRIATION ACTS

The Constitution provides that no money may be drawn from the state treasury unless authorized by appropriation act.[140] With the exception of the General Appropriations Bill, "all other appropriations shall be made by separate bills, each embracing but one subject."[141] Before any appropriation measure can become law, the yeas and nays in each house on that measure must be recorded.[142]

The governor, through the Office of Planning and Budget (OPB), is required to present to the General Assembly at each session, within five days of its convening, a budget message and report containing various types of specified information on the financial condition of the state,[143]

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138. *Gay v. Laurens County*, 213 Ga. 518, 100 S.E. 2d 271 (1957).

139. *Rutledge v. Gaylord's Inc.*, 233 Ga. 694, 213 S.E. 2d 626 (1975); *Chanin v. Bibb County*, 234 Ga. 282, 291, 216 S.E. 2d 250 (1975); *Stinson v. Manning*, 221 Ga. 487, 492, 145 S.E. 2d 541 (1965).

140. Ga. Const. art. III, sec. VII, par. XI.

141. Ga. Const. art. III, sec. VII, par. IX.

142. Ga. Const. art. III, sec. VII, par. XII.

143. Ga. Code Ann. sec. 40-406.

as well as a draft of a General Appropriations Bill for the next fiscal year.[144] An alternative budget must be prepared if tax or revenue increases are anticipated. A capital budget is also required, summarizing the recommendations of the governor for new capital outlay and authority lease rental expenditures by state agencies. Copies of these reports are printed and transmitted to each member of the General Assembly.

Estimates for the budget of the General Assembly itself are prepared by the Legislative Fiscal Officer, subject to the approval of the Speaker of the House and President of the Senate. These estimates are not subject to review by the Office [illegible]anning and Budget, even though they are submitted to the office for inclusion in the budget report.[145]

The Georgia Constitution specifies that "all bills for raising revenue, or appropriating money, shall originate in the House of Representatives, but the Senate may propose, or concur in amendments, as in other bills."[146] Though the point appears to have received little judicial consideration, it should be noted that this provision does not completely deprive the Senate of its creative powers in respect to revenue measures. The Georgia Supreme Court has sustained an admittedly revenue-raising measure which, though originally introduced in the House, had actually come from the Senate in the form of a substitute measure. The stated basis of the court's decision was the general parliamentary rule to the effect that a substitute is merely an amendment and thus permissible under the language of the Constitution.[147]

General Appropriations Act: This act must be passed annually to appropriate the funds necessary to operate all the various departments and agencies and to meet the current expenses of the state for the next fiscal year. Prior to 1972, Georgia formally utilized the biennial appropriation. The practice developed, however, for the General Assembly to appropriate funds based on the biennial budget submitted by the governor for only the first year of each biennium and specify the same amounts, more or less, by budget unit and object for the second year. In the second year of the biennium, the General Assembly would then pass an amended General Appropriations Act.

The General Assembly may not appropriate funds for any given fiscal year in excess of a sum equal to the amount of unappropriated surplus expected to have accrued in the state treasury at the beginning of

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144. Ga. Const. art. VII, sec. IX, par. I; Ga. Code Ann. chap. 40-4.

145. Ga. Code Ann. sec. 40-409.

146. Ga. Const. art. III, sec. VII, par. X.

147. *Mayes v. Daniel*, 186 Ga. 345, 198 S.E. 535 (1938).

the fiscal year, together with an amount not greater than the total treasury receipts from existing revenue sources anticipated to be collected in the fiscal year (less refunds), as estimated by the governor in the budget report.[148] Except where the Constitution provides for exceptions, all appropriations to state agencies must be for specific sums of money.[149]

Supplementary Appropriation Act: In addition to the General Appropriations Act and its amendments, the General Assembly will occasionally pass a Supplementary Appropriation Act. Whether this one act can change the appropriation of more than one agency is unclear. The Constitution provides that, with the exception of the General Appropriations Bill, "all other appropriations shall be made by separate bills, each embracing but one subject."[150] House rules further provide that every supplementary appropriation "shall be embodied in a separate bill limited to some single work, object, or purpose therein stated."[151] In practice, however, the General Assembly has used a Supplementary Appropriation Act to change the appropriations of a number of state agencies. In any event, the appropriation change is only for the remainder of that fiscal year.

No Supplementary Appropriation Act may be passed until the General Appropriations Act has been passed by the legislature and approved by the governor; and unless (1) there is an unappropriated surplus in the state treasury, or (2) the revenue necessary to fund such appropriation has been provided for by a tax enacted for such purpose and collected into the general fund of the state treasury.[152] A Supplementary Appropriation Act cannot continue in force beyond the expiration of the General Appropriations Act in effect when it was authorized.[153]

REVENUE, EXPENDITURE, COMPENSATION, AND RETIREMENT BILLS

Any retirement bill for state, county, or municipal officials and employees, and any bill which would change the anticipated revenues or expenditure level of any state agency, and any bill changing the compensation or allowances of any elected or appointed state official, department, or agency head, must be introduced in the General Assembly during the first ten days of a session.[154]

[148] Ga. Const. art. VII, sec. IX, par. II(b).

[149] Ga. Const. art. VII, sec. IX, par. IV(a).

[150] Ga. Const. art. III, sec. VII, par. IX.

[151] House Rule 237(1).

[152] Ga. Const. art. VII, sec. IX, par. III.

[153] Ga. Const. art. VII, sec. IX, par. II(b).

[154] Ga. Code Ann. chap. 47-13.

For the first two types of bills the director of the Office of Planning and Budget (OPB) and the state auditor must furnish the chairman of the committee to which the bill is referred a fiscal note outlining the fiscal effect of the proposed bill, including, if possible:

(1) a reliable estimate in dollars of the anticipated change in revenue or expenditures under the bill;
(2) a statement as to the immediate and, if determinable, the long-range effect of the measure;
(3) an opinion relative to the actuarial effect of the bill, if it relates to a retirement or pension fund or system.[155]

If, after investigation, it is impossible to predict a dollar estimate of the impact of the proposed measure, the fiscal note must explain why such is not possible.

No comment or opinion can be included in the fiscal note regarding the merits of the measure for which the statement is prepared, though technical or mechanical defects may be noted. Additionally, if there is a difference of opinion between the state auditor and the director of OPB, the fiscal note–which is jointly prepared–must note the areas of difference.

Fiscal notes for revenue and retirement bills must be attached to the bill and read in each house at the bill's third reading. Additionally, each General Assembly member must be furnished with a copy of the note before such bill can come up for a vote.[156]

With respect to bills changing the compensation of state officials, the state auditor is directed to prepare and furnish a fiscal note for each, unless no state funds are used, in whole or part, in an official's salary.[157] These fiscal notes must show the present compensation and allowances of an officer, any present longevity increments, and any personal expense allowances (other than mileage and travel), as well as provide a statement of the proposed increase in compensation and allowances, and the total cost of such changes. Copies of these fiscal notes must be distributed to each legislator before a vote can be taken on a compensation measure.

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[155] *Ibid.*, sec. 47-1303.

[156] *Ibid.*, sec. 47-1304.1.

[157] *Ibid.*, sec. 47-1306.

Chapter VI

The Lawmaking Process

Perhaps the best method of depicting the Georgia legislature in action is to follow a bill from the time of its introduction in one of the houses through the various stages which it must pass before it can become a "law."

SOURCES OF BILLS

Any member of either house of the General Assembly can introduce any measure, except for revenue and appropriation bills and compensation resolutions which must be introduced in the House. It is important to note, however, that only a member can introduce a bill or resolution. The governor, for example, though an important source of legislation, introduces none himself; instead, he must designate a legislator (often the administration floor leader in one of the houses) to introduce a measure which he recommends or desires. Also, there are no "committee bills," as such, in the Georgia General Assembly.

The Georgia legislature permits multiple sponsoring of legislation; that is, several members of the same house may author a measure or attach their names as sponsors of a bill or resolution introduced in their house. There are no limits on the number who may sign a proposal to be introduced, though usually no more than a dozen will be listed by name on the actual bill. Where many members co-sponsor legislation, the major sponsors are listed by name, followed by the notation "and others." However,

HOW A BILL BECOMES A LAW

Note: This chart is based on a bill introduced in the House. Except for revenue and appropriation measures, any bill may also originate in the Senate. Procedure for passing a bill in the Senate is similar to that in the House, except as noted below.

1. Bill is filed with Clerk by member and assigned number.

2. On next legislative day, bill is read for first time (by title only) by Clerk. Speaker then refers bill to proper committee for consideration.

3. Public hearings on bill may be held by committee.

4. Clerk automatically reads bill for second time (by title only) on legislative day following first reading.*

5. Possible actions by committee:
    - (a) May recommend that bill Do Pass
    - (b) May recommend that bill Do Not Pass
    - (c) May recommend that bill Do Pass With Changes (for example, by committee amendment or substitute)
    - (d) May report bill with no recommendations**
    - (e) May hold bill

6. (a) If committee report is favorable, bill is passed to third reading without question.
    (b) If committee report is unfavorable, bill may be passed to third reading if House votes to disagree with unfavorable report.

7. Clerk reads bill for third time (in its entirety) in House. Bill is debated on floor, where it is subject to amendment or substitute, and passed by majority vote of total membership of House.

8. Bill is engrossed and transmitted to Senate.

9. If passed by Senate in identical form, bill is enrolled and signed by Speaker and Clerk in House, and by President and Secretary in Senate.***

10. Bill is then sent to Governor, who may sign it, veto it, or do nothing. Unless vetoed by Governor, bill becomes law. If bill is vetoed, it is sent back to its house of origin. Bill becomes law if two-thirds of membership in each house vote to override veto.

* Second reading in Senate occurs only after committee reports bill out.

** In Senate, bills are not reported out of committee without recommendation.

*** If Senate passes amended version of bill as passed by House, bill is then sent back to House, which may agree or disagree to amendments. If House disagrees to amendments, and neither house recedes from position, conference committee may be established with representatives from both houses to attempt to reach compromise. If conference committee reaches agreement, both houses must agree to conference committee report before bill is sent to Governor.

Figure 8. HOW A BILL BECOMES A LAW

the complete list of sponsors is always maintained on file with either the Clerk of the House or Secretary of the Senate.

DRAFTING BILLS

Although only a legislator can introduce a bill or resolution in the General Assembly, it is not mandatory that he or she actually draft or author the measure, though many do. Often private citizens, attorneys, special committees, and interest groups will draw up a proposal and seek a legislator willing to introduce it. Similarly, the governor, state agencies, and local governments will assign their attorneys or legal specialists to draft a measure and seek a legislator to sponsor it.

Before introduction, however, most proposals are taken by sponsoring legislators to the Office of Legislative Counsel for drafting, redrafting, or at least review. This office is staffed by attorneys skilled in legislative matters and bill drafting, and offers these services to any General Assembly member. Such a request by a legislator for drafting or review of a bill, as well as conversations between the legislator and the Counsel's office, are treated as privileged information.

The Office of Legislative Counsel attempts to put proposed legislation into constitutional form, if possible. If, after drafting a particular measure, the Counsel's office believes it to be of doubtful constitutionality, the author or sponsor of the bill is so informed; however, the decision as to whether to submit the proposed measure in the General Assembly is left entirely with the sponsor.

INTRODUCING A BILL

To introduce a measure, a legislator generally files a copy of the bill or resolution with the Clerk or Secretary, who assigns the bill a number and enters appropriate information about the bill in the records of that office.

A bill may also be introduced during a floor session by carrying a copy of the bill forward to the Clerk or Secretary at the front of either chamber. There is no formally-designated "hopper" into which bills are placed for introduction, though the phrase "putting a bill in the hopper" is sometimes used to refer to the bill introduction process.

Georgia has no procedure for introducing bills prior to the legislative session, though bills are often drafted in advance of the convening of a session. Before being introduced, bills and resolutions must be written or printed. They must contain the name and district of the member or members introducing the measure, and a title or brief summary of the measure.

Bills drafted by the Legislative Counsel's office are typed into the General Assembly's computerized bill typing system, and the author is given copies which he can submit to the Clerk of the House or the Secretary of the Senate. Bills not drafted by the Legislative Counsel are submitted directly to the Clerk or Secretary, whose staff is responsible for typing the bill in correct form into the computer.

The original copy of a bill typed in correct form is for the exclusive use of the Senate or House and the committee to which the measure will be referred.

DEADLINES FOR BILL INTRODUCTION

In the Senate a bill must be filed in the office of the Secretary before 12:00 noon to be formally introduced on the next legislative day.[1] The House only requires that a bill be filed with the Clerk no later than one hour after adjournment for introduction on the next day.[2] These rules allow time for the bill to be entered into the bill-typing system, and multiple copies made for distribution to members before the measure is read to the body and referred to committee.

Since logjams of bills tend to build up in most legislative bodies as sessions approach adjournment, most state legislatures now impose specific deadlines for bills to be introduced during a session.[3] Typically they have provisions whereby members can introduce a measure under special circumstances beyond these deadlines, such as by securing unanimous consent or a certain vote of the whole body.

In Georgia there are no general deadlines for the introduction of legislation (with exceptions noted below) in the Senate. In the House, no bill or resolution requiring the concurring vote of the Senate may be introduced after the thirtieth day of a session, except upon the approval of three-fifths of a quorum.[4]

Deadlines for introduction are statutorily-imposed on both

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1. Senate Rule 110.
2. House Rule 123.
3. See *Book of the States, 1976-77*, pages 66-67, for listing of deadlines by state.
4. House Rule 123.

houses of the General Assembly with respect to certain categories of bills:

TABLE 9

STATUTORY DEADLINES FOR BILL INTRODUCTIONS

Type of Bill	Deadline for Introduction
Any retirement bill for state, county or municipal officials or employees	10th day of session
Any bill changing the anticipated revenue or expenditure of any state agency	10th day of session
Any bill changing the compensation or allowances of any elected or appointed state officials or agency heads	10th day of session
Compensation Resolutions	15 days prior to adjournment

PRINTING OF BILLS

The rules of both houses require that all bills and resolutions of general application which are introduced shall be printed and a copy distributed to each member prior to consideration for passage.[5] This differs from the practice in some states, where bills are not reproduced until they have been referred to and approved by a standing committee.

During consideration of a measure in the Georgia General Assembly, amendments may be proposed either in committee or on the floor. Committee amendments–including substitutes–must be printed, and are incorporated into a subsequent printing of an original bill, generally on a different color of paper, with the fact noted that this version is as amended by committee.

Amendments on the floor are handled somewhat differently. All amendments in both houses must be in writing, with the author of the amendment submitting a written proposal of the change to the Secretary of the Senate or Clerk of the House, depending in which house the change occurs. In some instances, printed versions of the amendment are distributed to members on the floor, though in the House, amendments are

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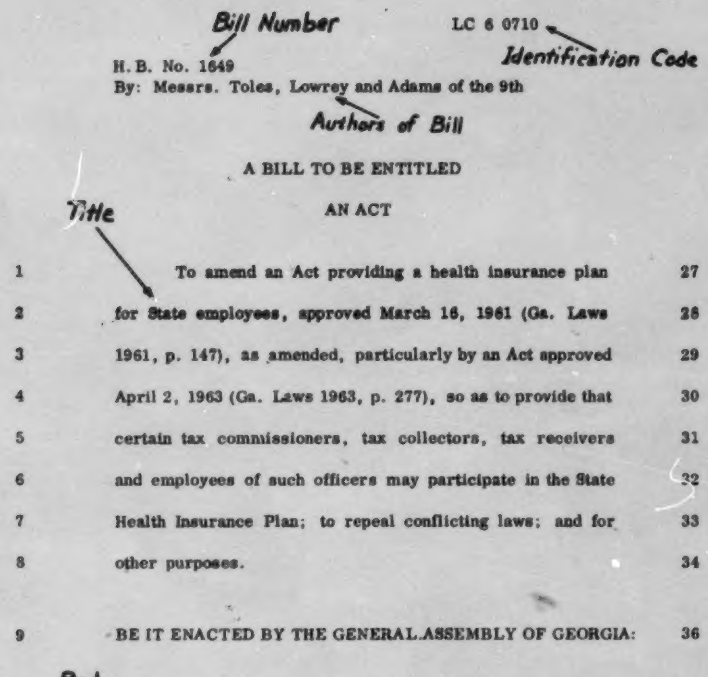
[5] Senate Rule 115; House Rule 130.


Bill Number
Identification Code
Authors of Bill
Title
Body

LC 6 0710

H. B. No. 1649
By: Messrs. Toles, Lowrey and Adams of the 9th

A BILL TO BE ENTITLED

AN ACT

To amend an Act providing a health insurance plan for State employees, approved March 16, 1961 (Ga. Laws 1961, p. 147), as amended, particularly by an Act approved April 2, 1963 (Ga. Laws 1963, p. 277), so as to provide that certain tax commissioners, tax collectors, tax receivers and employees of such officers may participate in the State Health Insurance Plan; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. An Act providing a health insurance plan for State employees, approved March 16, 1961 (Ga. Laws 1961, p. 147), as amended, particularly by an Act approved April 2, 1963 (Ga. Laws 1963, p. 277) is hereby amended by adding at the end of Section 1 the following:

> "The term 'employee' shall also include any county tax commissioner, tax collector, or tax receiver and employees of such officers, if they shall be members of the State Employees Retirement System.",

so that when so amended, Section 1 shall read as follows:

> "Section 1. For the purposes of this Act, an employee is defined as a person who works full-time for

Figure 9.
IDENTIFICATION NUMBERS, AUTHORS, AND TITLE OF A BILL

projected on two large screens in the front corners of the chamber. However, in either house at any time, a majority of a quorum may suspend action upon any pending bill or resolution of general application until the amendments which have been offered to it have been printed and distributed.[6]

BILL NUMBERING AND IDENTIFICATION

Bills and resolutions are numbered separately in the House and Senate in the order submitted to the Clerk in the House and the Secretary in the Senate. In both houses, bills are numbered consecutively throughout the biennium. Thus, the first bill introduced in a house in the second year of the biennium is given the number immediately following the last bill number of the preceding session. Resolutions are numbered similarly, except that, in the House, joint resolutions are given an additional number, as "H.R. 805–1953." In this example, "805" is the consecutive number of the resolution. The position on the general calendar of H.R. 805–1953 is indicated by the "1953," which simply means that this resolution appears on the calendar immediately following House Bill 1953.

Following the daily adjournment of each house, the Clerk and Secretary utilize a computerized bill typing system (see p. 122) to reprint any measures that have been changed or amended in that day's session. If amendments occur in committee or on the floor, or if the committee reports a substitute measure, such changes are incorporated when reprinting the bill or resolution. Even though a bill may be so completely rewritten in committee that it bears little or no resemblance to the measure as originally submitted, the number of the bill must remain the same.

A code in the upper right corner of a bill or resolution identifies certain information on that bill for the Clerk or Secretary, as well as for the legislator. For instance, since most measures are drafted or revised by the Office of the Legislative Counsel, a code such as "LC 6 0493" is quite common. In this case, "LC" identifies the bill as having been drafted by the Legislative Counsel; the "6" identifies the particular staff member who worked on this piece of legislation; and the "0493" identifies that bill for the computer, should reprinting of the bill be required.

If a measure is amended in either house, the code is changed to reflect that version of the original measure which is under consideration. For instance, the code on a bill which has been amended might now be changed to read "SB 439/FA/5." Here, "SB 439" would identify the measure as Senate Bill 439, while "FA" would identify that floor amendments were incorporated in this version. The "5" in this example identifies

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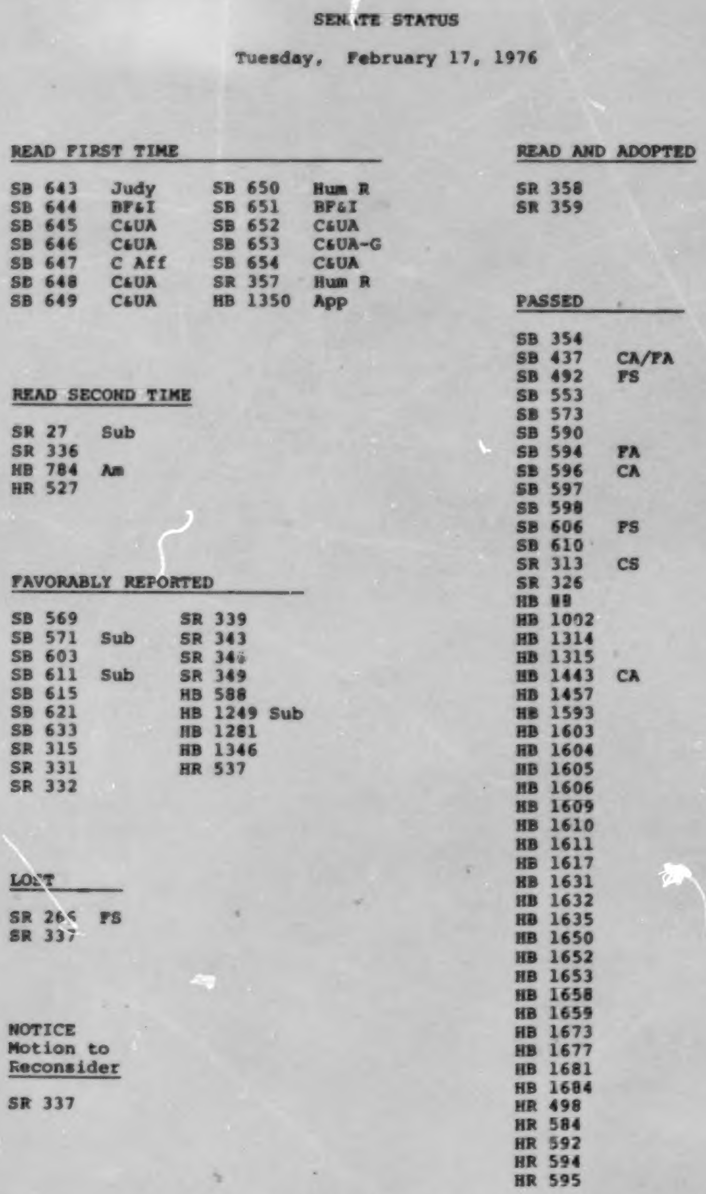
[6] Senate Rule 115; House Rule 130.



SENATE STATUS

Tuesday, February 17, 1976

READ FIRST TIME

SB 643	Judy	SB 650	Hum R
SB 644	BF&I	SB 651	BF&I
SB 645	C&UA	SB 652	C&UA
SB 646	C&UA	SB 653	C&UA-G
SB 647	C Aff	SB 654	C&UA
SB 648	C&UA	SR 357	Hum R
SB 649	C&UA	HB 1350	App

READ SECOND TIME

SR 27	Sub
SR 336	
HB 784	Am
HR 527	

FAVORABLY REPORTED

SB 569		SR 339	
SB 571	Sub	SR 343	
SB 603		SR 346	
SB 611	Sub	SR 349	
SB 615		HB 588	
SB 621		HB 1249	Sub
SB 633		HB 1281	
SR 315		HB 1346	
SR 331		HR 537	
SR 332			

LOST

SR 265	FS
SR 337	

NOTICE Motion to Reconsider

SR 337

READ AND ADOPTED

SR 358
SR 359

PASSED

SB 354	
SB 437	CA/FA
SB 492	FS
SB 553	
SB 573	
SB 590	
SB 594	FA
SB 596	CA
SB 597	
SB 598	
SB 606	FS
SB 610	
SR 313	CS
SR 326	
HB 89	
HB 1002	
HB 1314	
HB 1315	
HB 1443	CA
HB 1457	
HB 1593	
HB 1603	
HB 1604	
HB 1605	
HB 1606	
HB 1609	
HB 1610	
HB 1611	
HB 1617	
HB 1631	
HB 1632	
HB 1635	
HB 1650	
HB 1652	
HB 1653	
HB 1658	
HB 1659	
HB 1673	
HB 1677	
HB 1681	
HB 1684	
HR 498	
HR 584	
HR 592	
HR 594	
HR 595	

Figure 10. SENATE DAILY STATUS SHEET

the particular operator who typed the bill (however, this designation is only used on Senate bills).

Among the other abbreviations commonly used, "FS" identifies a measure as a floor substitute; "CA," a measure that has been amended in committee; and "CS," a measure as a committee substitute. These abbreviations may be used together where appropriate, as "FSCA," which would identify a floor substitute to a committee amendment. A Senate bill amended in the House would be identified as "HFA." Finally, the abbreviation "AP" is used to identify a bill or resolution as passed by a house. It should be noted again, however, that regardless of what action has taken place in committee or on the floor of either house with regard to a measure, the number of that bill or resolution remains unchanged. The code in the upper right corner merely assists in identifying the version of the bill or resolution under consideration.

Each page of a bill printed by the Clerk or Secretary has the lines of print numbered consecutively on the left margin, e.g., page 1, line 20, or page 3, line 2. This is for ease of reference when debating a bill in the General Assembly.

A different set of numbers occur on the right margin of a bill or resolution. These numbers are of no consequence to the legislator, as they indicate unit numbers for the computer operator's use when a bill must be reprinted to add or delete words, sentences, or provisions.

DAILY LEGISLATIVE MATERIALS

It might be well to mention some of the reference materials and facilities which are typically available to members of the General Assembly (and to the public) during the session:

(1) Calendars–copies of the daily calendars of business for that house.

(2) First Readers–measures which have been introduced and read only once (by title), with notation of committee referred to.

(3) Daily Status Sheet–a single-page daily listing of floor and committee action taken by the particular house, and those measures adopted by the other house, on the previous legislative day.

(4) Composite Status Sheet–a multi-page consolidated listing of the status of all bills and resolutions introduced that session (or carried over from the previous session in even-numbered years) through the

GEORGIA STATE SENATE

COMPOSITE STATUS

SENATE BILLS		Read 1st Time	Read 2nd Time	Favorably Reported	Committee Amendments/Substitute	Recommitted	Unfavorably Reported	Read 3rd Time	Passed/Adopted	Committee/Floor Amendments/Substitute	Lost	Notice of Motion to Reconsider	Reconsidered	Postponed	Withdrawn	Passed/Adopted	Committee/Floor Amendments/Substitute	Lost	Amendments/Substitute Agreed to	Amendments/Substitute Disagreed to	Insists on position	Conference Committee Appointed	Conference Committee Report Adopted	Recedes from Position	Footnotes	Sent to Governor	Date Signed by Governor	Act/Veto Number
486. Instrument for Injecting Drugs - possession unlawful (HGW)(NREQ)	S	1/28				[illegible]									[illegible]										•			
	H																											
487. Coastal Marshlands Act - Natural Resources Dept. enforce (HGW)	S	1/28	2/21	2/21	A			2/23	2/23	CA																3/28	4/5	1480
(Nat R)	H	2/24	2/25	2/25				3/6	3/6																			
488. Air Quality Control - unlawful to emit contaminants (HGW)	S	1/28	2/21	2/21				3/3	3/3 •	FS															•	3/21	4/5	1481
(Nat R)	H	3/3	3/6	3/7				3/8	3/8																			
489. Operations Resulting in Air Pollution - emission monitoring devices (HGW)	S	1/28	2/21	2/21				2/24	2/25	FS		2/25	2/28	3/6 •				[illegible]							•			
	H																											
490. Surface Mining, Mining Operator - redefine (Ag)	S	1/28	2/3	2/3				2/24	2/24	FA									3/7							3/28	4/5	1482
(Nat R)	H	2/25	2/28	2/28				3/6	3/6	FA																		
491. Surface Mining Act - Environmental Protection Div. enforce (Ag)	S	1/28																										
	H																											
492. Air Quality Control - hearings (HGW)	S	1/28	2/21	2/21				2/22	2/22											3/8								
(Nat R)	H	2/23	2/24	2/25	A			3/6	3/6	CA																		
493. Water Quality Control Act - civil penalties for violations (HGW)	S	1/28	2/21	2/21	A			2/22	2/22	CA									3/7							3/28	4/5	1484
(Nat R)	H	2/23	2/24	2/25	S			3/6	3/6	CS																		
494. Water Quality Control Act - procedure for orders issued (HGW)	S	1/28	2/21	2/21				2/23	2/23																	3/24	4/5	1485
(Nat R)	H	2/24	2/25	2/28				3/6	3/6																			
495. Solid [illegible]aste Management - provi[illegible] (HGW)	S	1/28	2/21	2/21	A			2/23	2/23	CA									3/7							3/24	4/5	1486
(Nat R)	H	2/24	2/25	3/3	S			3/6	3/6	CS/FA																		
496. Reorganization - printing & electronic data (EREG)	S	1/28																										
	H																											
497. Superior & City Courts - change adjournment provisions (Judy)	S	1/31	2/2	2/2	A			2/3	2/3	CA																3/28	3/31	1230
(S Judy)	H	2/6	2/20	2/21				3/7	3/7																			

Figure 11. COMPOSITE STATUS SHEET

previous legislative day. This sheet is updated daily and indicates all floor and committee action taken by either house on bills and resolutions, the date of such action, and the action of the governor on those measures passing both houses.

(5) Senate Bills and Resolutions–copies of the bills and resolutions to be first considered by the Senate.

(6) House Bills and Resolutions–copies of the bills and resolutions to be first considered by the House.

READING OF BILLS

Bills are read in each chamber because the Constitution of Georgia stipulates that every bill, before it may pass, must be read three times, and on three separate days, in each house.[7] This practice traces to British parliamentary rules. Reading of bills was of practical importance in earlier centuries, especially where illiteracy was common among citizens–including some legislators–and where bills were submitted in handwritten form or printing processes were slow and expensive.

First Reading: The first reading of a bill or resolution takes place on the day of introduction (the legislative day following filing with the Clerk or Secretary). After the measure is read by title, the presiding officer assigns it to a committee. Soon afterward, the Clerk or Secretary prepares a list, entitled "First Readers," which for each bill or resolution read for the first time that day cites the bill's title, and the committee to which the bill was referred. There can be a motion "to engross" (see page 143) at this reading.

Second Reading: Like the first reading, the second is by title only. Rules of the House provide that a bill or resolution "having the force and effect of law" is to be automatically passed to a second reading on the legislative day following the first reading.[8] This means that a bill can be passed to a second reading in the House while still in the custody of a committee.

In contrast, the Senate provides that a second reading not occur until the legislative day following the day the bill is reported out of committee; but after the thirty-fifth day of the session, the second reading is to occur on the same day as reported out of committee.[9]

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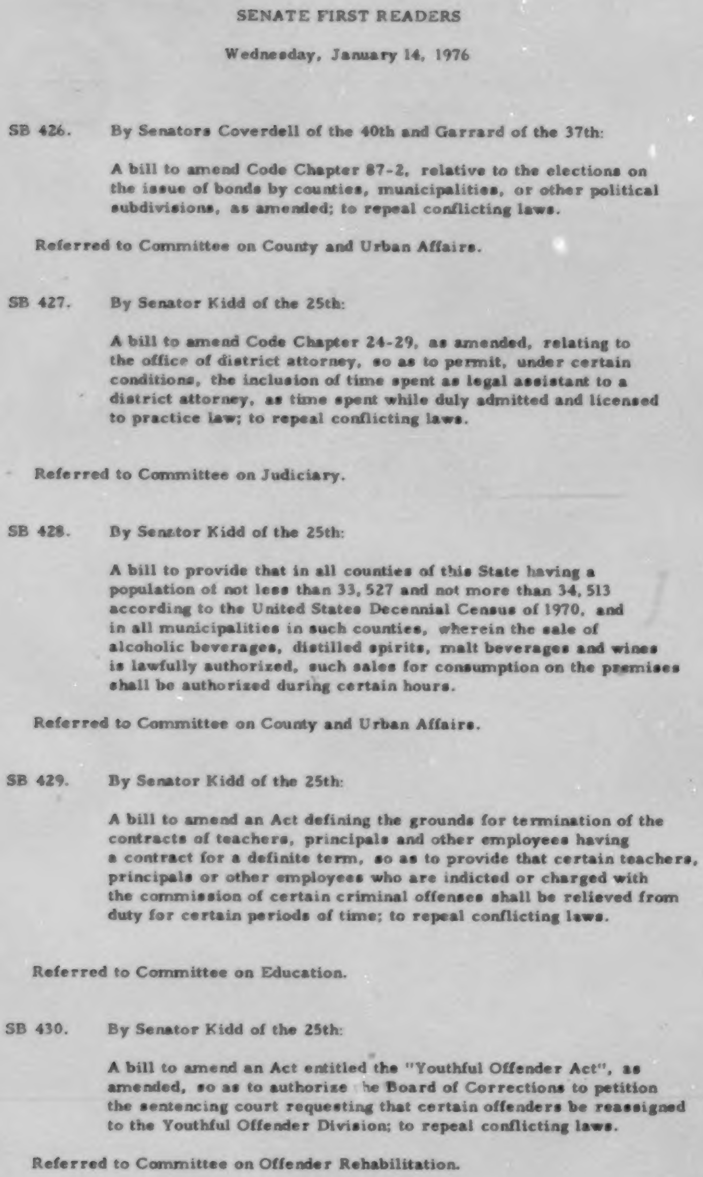
7. Ga. Const. art. III, sec. VII, par. VII.
8. House Rule 134.
9. Senate Rule 119.



SENATE FIRST READERS

Wednesday, January 14, 1976

SB 426. By Senators Coverdell of the 40th and Garrard of the 37th:

A bill to amend Code Chapter 87-2, relative to the elections on the issue of bonds by counties, municipalities, or other political subdivisions, as amended; to repeal conflicting laws.

Referred to Committee on County and Urban Affairs.

SB 427. By Senator Kidd of the 25th:

A bill to amend Code Chapter 24-29, as amended, relating to the office of district attorney, so as to permit, under certain conditions, the inclusion of time spent as legal assistant to a district attorney, as time spent while duly admitted and licensed to practice law; to repeal conflicting laws.

Referred to Committee on Judiciary.

SB 428. By Senator Kidd of the 25th:

A bill to provide that in all counties of this State having a population of not less than 33,527 and not more than 34,513 according to the United States Decennial Census of 1970, and in all municipalities in such counties, wherein the sale of alcoholic beverages, distilled spirits, malt beverages and wines is lawfully authorized, such sales for consumption on the premises shall be authorized during certain hours.

Referred to Committee on County and Urban Affairs.

SB 429. By Senator Kidd of the 25th:

A bill to amend an Act defining the grounds for termination of the contracts of teachers, principals and other employees having a contract for a definite term, so as to provide that certain teachers, principals or other employees who are indicted or charged with the commission of certain criminal offenses shall be relieved from duty for certain periods of time; to repeal conflicting laws.

Referred to Committee on Education.

SB 430. By Senator Kidd of the 25th:

A bill to amend an Act entitled the "Youthful Offender Act", as amended, so as to authorize the Board of Corrections to petition the sentencing court requesting that certain offenders be reassigned to the Youthful Offender Division; to repeal conflicting laws.

Referred to Committee on Offender Rehabilitation.

Figure 12. FIRST READERS

Third Reading: Following the second reading, a bill or resolution is placed on the general calendar of that house for a subsequent third reading when called up. However, during the latter part of the session —when the rules calendar is in effect (see page 137)—a bill must be assigned from the general calendar to the rules calendar by the Rules Committee of that house before a third reading is possible, and then only when called up by the presiding officer of that house. If so called, a measure is read section-by-section, word-by-word before the body.

COMMITTEE CONSIDERATION OF BILLS

ASSIGNMENT OF BILLS

Before assigning bills to committee each day, the presiding officer receives a synopsis of every bill on the calendar and often studies the legislation itself. The determination of which is the "proper" committee to consider a bill is discretionary with the presiding officer. He may decide the matter wholly on rational grounds, considering the nature of the measure or its subject matter. On the other hand, he may assign the measure to a committee that he believes will take the action which he desires on it—for example, report it unfavorably or let it die in committee. It appears that the presiding officer is seldom, if ever, overruled on his choice of the committee to which a measure shall be referred.

MEETINGS OF STANDING COMMITTEES

Participation in committee deliberations is an understood obligation for all legislators, although no specific Senate or House rule requires attendance. In some states legislative rules specify that members are to be automatically dropped from membership on committees if they miss a specified number of meetings (usually three) without excuse or good cause. In Georgia, however, members of each house serve on several committees, and meeting time conflicts inevitably occur, forcing members to miss some meetings. Another problem is finding a time and place for meetings. While there are committee rooms provided in the Capitol, these must be shared in most instances by several committees.

Standing committees meet on the call of the chairman, usually following adjournment for the day during a session. Usually, the Clerk or Secretary announces the time and place for committee meetings and posts schedules in his office, though frequently these times must be changed when legislative proceedings are unexpectedly prolonged on the floor.

At these meetings, members discuss the various bills which have been assigned to their committee. In the case of a controversial issue, a public hearing may be held to allow all interested persons an opportunity to express their views on the measure before the committee. The committee may also call on executive officials and any other persons to testify before it on the bill or to furnish it with information.

Committee meetings are open to the public in both houses, except that House rules exempt meetings of the Rules Committee when fixing the calendar and meetings of standing committees when discussing real estate acquisition and personnel matters (if a majority of a quorum of the committee or subcommittee so vote).[10] Rules of both houses provide that when two Senators and two Representatives on a conference committee feel that open meetings are impairing the committee's work, they may meet in executive, or closed, session if their request is approved by a majority of the membership in each house.[11]

The secretary of each standing committee is directed to keep minutes of the committee meetings, with these minutes to be matters of public record. Such minutes, however, have not generally shown how each committee votes on questions before it, nor have they included a statement of the committee's analysis of the bill.

POSSIBLE COMMITTEE ACTIONS

A committee can dispose of a measure in a number of ways:

(1) It may report the measure back to the body favorably, with or without amendments (amendments may be so extensive as to constitute, in effect, a substitute measure);

(2) it may report the measure back unfavorably;

(3) it may report the measure without recommendation (in the House); or

(4) it may not report the bill at all.

Both houses require that all committee reports be in writing and declare that the minority members of a committee may also make a written report setting forth the reasons for their dissent.[12] The rules of the House of Representatives further provide that, whenever practicable, a committee is to include with its report on a general bill a brief resume of the bill and the reasons for the actions which it has taken.[13] In practice, few reports are ever filed.

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[10] Senate Rule 229; House Rule 211.

[11] Senate Rule 229; House Rule 211.

[12] Senate Rule 122; House Rule 137.

No committee in either house may deface or interline a measure which has been referred to it. If the committee wishes to recommend an amendment, it must do so on separate paper, noting the section, page, or line to which the amendment relates.[14] Where amendments are proposed by committee, the Clerk or Secretary is required to have them printed and distributed to each member. Action upon any pending bill or resolution of general application may be suspended at any time by a majority of those voting, provided the total vote constitutes a quorum, until the substitutes and amendments offered have been printed and distributed.[15]

When Favorably Reported: When a bill or resolution is favorably reported by committee–with no change, with amendments, or by committee substitute–it passes automatically to a third reading without question (if placed on the calendar).[16] At this stage a house could order the bill recommitted to the same committee or to another committee, could pass the measure, or could kill the bill on the final vote.

When a bill or resolution has been referred to and reported on by more than one committee, or where it has been recommitted to the same committee, the last committee report is the one which is acted upon by the house.[17]

When Unfavorably Reported: If the committee report recommends that the bill not pass, a member may request that the measure be placed on the house calendar for the purpose of disagreeing with this report. The individual legislator must give notice of his intention to move to disagree with the adverse committee report before adjournment of the next legislative day following the unfavorable committee report.[18] If the member secures the house's affirmative vote to disagree with the committee report, the bill is passed to a third reading, unless recommitted. The house may order the bill recommitted to the same committee or to another committee by a vote of a majority of those voting, provided the total vote constitutes a quorum.

If, however, an unfavorable committee report is agreed to by the house, the bill is dead for that session.

[13] House Rule 137.

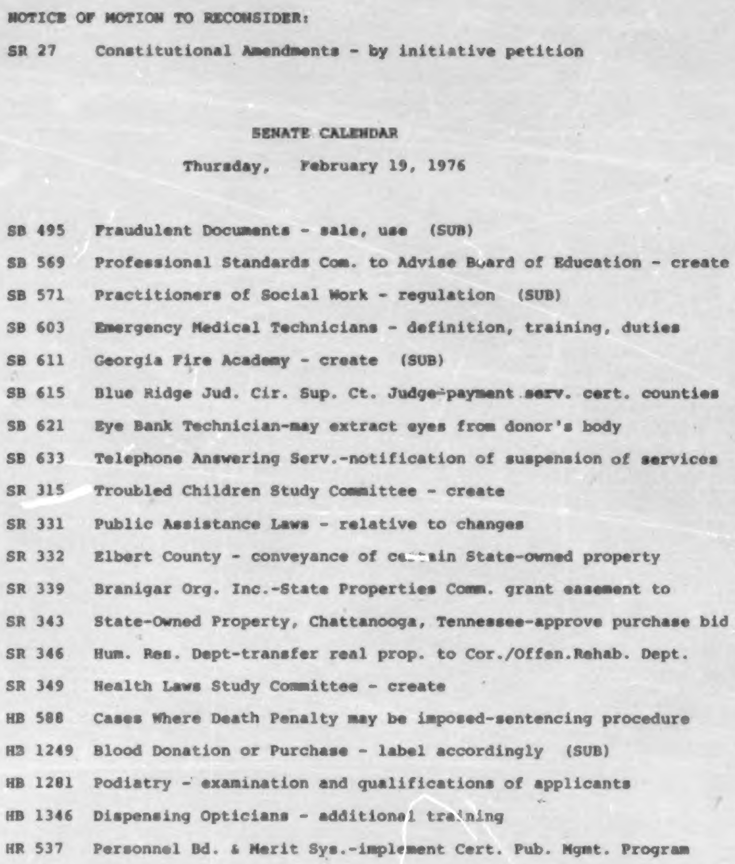
[14] Senate Rule 121; House Rule 136.

[15] Senate Rule 115; House Rule 130.

[16] Senate Rule 123; House Rule 138.

[17] Senate Rule 125; House Rule 139.

[18] Senate Rule 123; House Rule 138.



NOTICE OF MOTION TO RECONSIDER:

SR 27 Constitutional Amendments - by initiative petition

SENATE CALENDAR

Thursday, February 19, 1976

SB 495	Fraudulent Documents - sale, use (SUB)
SB 569	Professional Standards Com. to Advise Board of Education - create
SB 571	Practitioners of Social Work - regulation (SUB)
SB 603	Emergency Medical Technicians - definition, training, duties
SB 611	Georgia Fire Academy - create (SUB)
SB 615	Blue Ridge Jud. Cir. Sup. Ct. Judge-payment serv. cert. counties
SB 621	Eye Bank Technician-may extract eyes from donor's body
SB 633	Telephone Answering Serv.-notification of suspension of services
SR 315	Troubled Children Study Committee - create
SR 331	Public Assistance Laws - relative to changes
SR 332	Elbert County - conveyance of certain State-owned property
SR 339	Branigar Org. Inc.-State Properties Comm. grant easement to
SR 343	State-Owned Property, Chattanooga, Tennessee-approve purchase bid
SR 346	Hum. Res. Dept-transfer real prop. to Cor./Offen.Rehab. Dept.
SR 349	Health Laws Study Committee - create
HB 588	Cases Where Death Penalty may be imposed-sentencing procedure
HB 1249	Blood Donation or Purchase - label accordingly (SUB)
HB 1281	Podiatry - examination and qualifications of applicants
HB 1346	Dispensing Opticians - additional training
HR 537	Personnel Bd. & Merit Sys.-implement Cert. Pub. Mgmt. Program

Figure 13. SENATE GENERAL CALENDAR

Because of the possibility of confusion, the point should be emphasized that when a vote by the whole body occurs following an unfavorable committee report on a measure, the precise question before the body is whether this unfavorable report *is to be agreed to. This results*, of course, in the somewhat unusual situation of a "yes" vote being in opposition to the bill in question, and a "no" vote being in its favor. A few state legislatures have attempted to resolve this possible confusion by changing the form of the question before the body at this stage (*e.g.*, "Shall the bill be read a third time?") so that a "yes" vote is one actually in favor of the measure in question. In actual practice, nearly all bills which receive an unfavorable committee report die at this stage.

When Not Reported: The rules of the House provide that, if a measure has been held by a committee for ten days without being reported, any member, after giving notice to the body of his intention, may submit a motion at the next regular meeting instructing the committee to report such bill or resolution back to the House. If two-thirds of a quorum approve, the committee reports the measure, with or without a recommendation at the next regular session. If it fails to so report, the bill or resolution automatically is returned to the House for consideration.

In the Senate, there is no provision for removing a bill from committee where that committee refuses to report the bill back to the floor.

Importance of Committee Report: Most legislative bodies rely heavily on the work of their committees for a division of labor, which allows close scrutiny of a large number of bills. In the Georgia General Assembly, the committee report is a major determinant in the fate of most bills.

CALENDAR

Even after a committee has favorably reported a bill back to the house, that bill cannot come before the body until it has been placed on the calendar and called up by the presiding officer. A calendar is a daily listing of the bills and resolutions which are ready to receive legislative consideration on the floor of a house, usually indicating the order in which such measures will be considered.[19] The calendar is useful not only to

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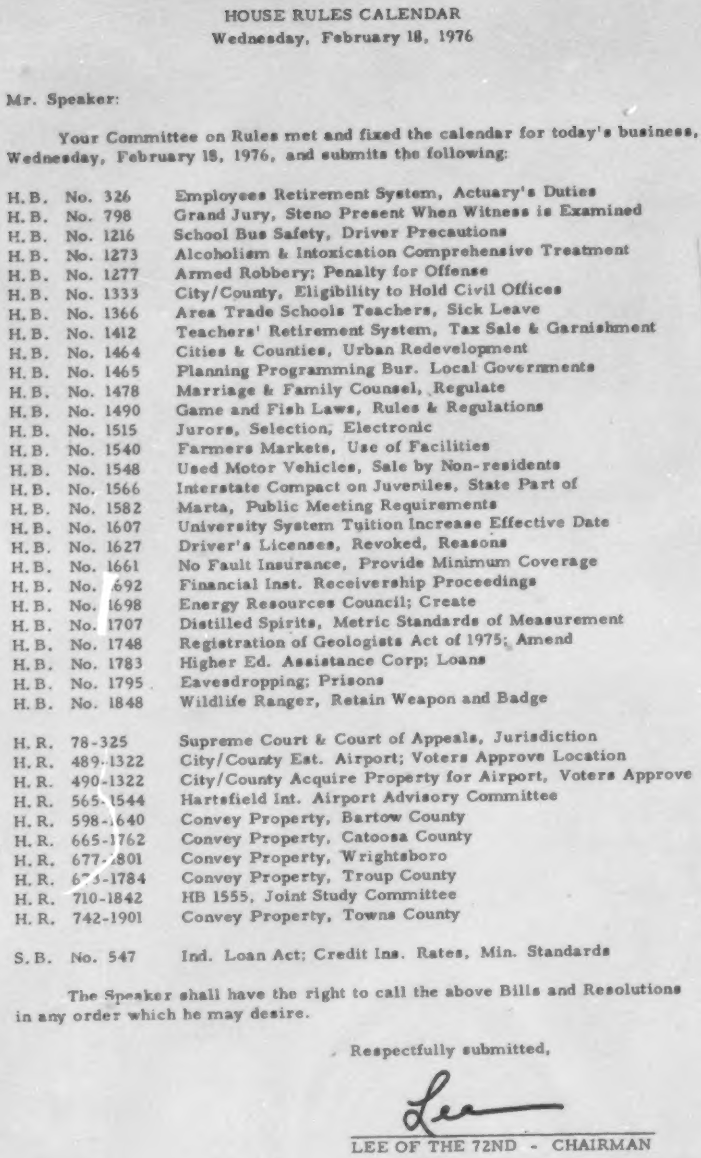
[19] In the House, uncontested local bills are not placed on the calendar, but are generally read the third time and passed on the day following the committee report. In the Senate, a separate local calendar is prepared for these bills.



HOUSE RULES CALENDAR

Wednesday, February 18, 1976

Mr. Speaker:

Your Committee on Rules met and fixed the calendar for today's business, Wednesday, February 18, 1976, and submits the following:

H.B.	No. 326	Employees Retirement System, Actuary's Duties
H.B.	No. 798	Grand Jury, Steno Present When Witness is Examined
H.B.	No. 1216	School Bus Safety, Driver Precautions
H.B.	No. 1273	Alcoholism & Intoxication Comprehensive Treatment
H.B.	No. 1277	Armed Robbery; Penalty for Offense
H.B.	No. 1333	City/County, Eligibility to Hold Civil Offices
H.B.	No. 1366	Area Trade Schools Teachers, Sick Leave
H.B.	No. 1412	Teachers' Retirement System, Tax Sale & Garnishment
H.B.	No. 1464	Cities & Counties, Urban Redevelopment
H.B.	No. 1465	Planning Programming Bur. Local Governments
H.B.	No. 1478	Marriage & Family Counsel, Regulate
H.B.	No. 1490	Game and Fish Laws, Rules & Regulations
H.B.	No. 1515	Jurors, Selection, Electronic
H.B.	No. 1540	Farmers Markets, Use of Facilities
H.B.	No. 1548	Used Motor Vehicles, Sale by Non-residents
H.B.	No. 1566	Interstate Compact on Juveniles, State Part of
H.B.	No. 1582	Marta, Public Meeting Requirements
H.B.	No. 1607	University System Tuition Increase Effective Date
H.B.	No. 1627	Driver's Licenses, Revoked, Reasons
H.B.	No. 1661	No Fault Insurance, Provide Minimum Coverage
H.B.	No. 1692	Financial Inst. Receivership Proceedings
H.B.	No. 1698	Energy Resources Council; Create
H.B.	No. 1707	Distilled Spirits, Metric Standards of Measurement
H.B.	No. 1748	Registration of Geologists Act of 1975; Amend
H.B.	No. 1783	Higher Ed. Assistance Corp; Loans
H.B.	No. 1795	Eavesdropping; Prisons
H.B.	No. 1848	Wildlife Ranger, Retain Weapon and Badge
H.R.	78-325	Supreme Court & Court of Appeals, Jurisdiction
H.R.	489-1322	City/County Est. Airport; Voters Approve Location
H.R.	490-1322	City/County Acquire Property for Airport, Voters Approve
H.R.	565-1544	Hartsfield Int. Airport Advisory Committee
H.R.	598-1640	Convey Property, Bartow County
H.R.	665-1762	Convey Property, Catoosa County
H.R.	677-1801	Convey Property, Wrightsboro
H.R.	673-1784	Convey Property, Troup County
H.R.	710-1842	HB 1555, Joint Study Committee
H.R.	742-1901	Convey Property, Towns County
S.B.	No. 547	Ind. Loan Act; Credit Ins. Rates, Min. Standards

The Speaker shall have the right to call the above Bills and Resolutions in any order which he may desire.

Respectfully submitted,

Lee

LEE OF THE 72ND - CHAIRMAN

Figure 14. HOUSE RULES CALENDAR

guide the presiding officer in calling up bills, but to alert the membership to the approximate order in which bills will be considered.

General Calendar: This is prepared daily throughout the entire session by the Clerk of the House and the Secretary of the Senate for their respective houses. In the House, this calendar governs the daily legislative agenda up until the last twenty-one days of the session; while in the Senate, the general calendar is in effect until the last ten days of the session.[20]

Although the Senate rules regarding the order of business and calendar are not as specific as those of the House, the Secretary has established a formula which is followed in the Senate and is similar to the House procedure. Like the House, the Senate considers the bills introduced in its house first, then the resolutions of its house, then the bills of the other house, and lastly the resolutions introduced in the other house. The calendar presents these bills and resolutions in numerical order, beginning with the bills and resolutions first introduced in the particular house and proceeding to consecutively-numbered legislation. In contrast to the House, the Senate places the bills and resolutions left from the preceding day at the head of the next day's calendar to prevent prolonged delay in their consideration.

The House and Senate have adopted formal rules which require a two-thirds vote to change the order of business under the general calendar, and this two-thirds vote must constitute a majority of the total membership of that house.[21] A motion to change the order of business in both houses must be voted on immediately, and no debate is allowed.[22]

Rules Calendar: During the last ten legislative days of a session in the Senate, and the last twenty-one days in the House, the daily legislative agenda is governed by a rules calendar prepared by the Rules Committee of each house. By this time, a greater number of bills have usually been reported from committee than can be considered on the floor during a single day, and the rules calendar specifies which of these bills and resolutions shall be called up for consideration. In preparing the rules calendar, the Rules Committee of each house draws from the general calendar, which lists all bills ready for consideration, those bills considered more important or deserving of floor consideration the next day. In the process, some bills are omitted from the list, though they are again eligible for placement on the calendar the following day.

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20. Senate Rule 35; House Rule 37.
21. Senate Rule 39; House Rule 40.
22. Senate Rule 38; House Rule 39.

During operation of the rules calendar, no matter can otherwise be taken up except by a three-fourths vote of those voting, providing the three-fourths constitutes a majority of the membership of that house.[23] It is possible, therefore, for a bill to be favorably reported out of committee, receive two readings, and never come up for debate or voting in a house if that measure is reported out in the latter part of a session and the Rules Committee chooses not to place it on the calendar.

As a final matter, the rules of both houses provide that all bills are to be called up for consideration in the numerical order in which they stand on the calendar; and, before they are read for the second or third time, the Clerk or Secretary must distinctly state their numbers and the names of the members who introduced them.[24] In the House, an exception is made, with the Speaker customarily granted the discretion to call bills from the calendar in any order that he desires.

FLOOR DEBATE AND AMENDMENT

After a bill has been called from the calendar for a third reading –this time read in its entirety along with any committee amendments to the bill–members may debate its merits and offer amendments from the floor (see pp. 169-174 for a detailed description of the amending process). To speak for or against a bill, a legislator must obtain permission of the chair to address the chamber from the well of the house. Should a member already be speaking from the well, another may not speak until the first member yields the floor. However, debate is limited in both houses (see p. 54), and at any time the previous question can be called by a majority of a quorum present, thus precluding filibusters in either house.

A speaking member may be questioned by other members only should he or she yield for questions, and the choice rests with the legislator in the well. Only one member may ask questions at a time, and the proper procedure is to make the request through the chair. For the sake of audibility, each member has a microphone at his desk, which can be switched on by someone on the Clerk or Secretary's staff after the legislator signals his intention to address the chair or speaker in the well.

At any time during legislative proceedings, a member, while at his desk, may ask a "parliamentary inquiry" or "point of order" of the presiding officer. This action allows a legislator with a question regarding the

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23. Senate Rule 35; House Rule 37.

24. Senate Rule 116; House Rule 131.

immediate legislative procedure that house will follow to seek a ruling or explanation from the chair. For instance, when a number of amendments are before the body at one time, a member may be unsure of which is being voted upon, or what the effect of one will be on another. Or a member may have a question about the applicability of the house rules to the proceedings at hand. Rulings of the chair in these instances can be appealed to the body, but in practice are very seldom questioned. It should be noted that the parliamentary inquiry is intended to apply to procedural questions on which the chair can rule, and members are generally discouraged from making substantive points for or against a matter under consideration through this device.

After debate and adoption or rejection of all amendments on the floor, a member may move the previous question, or the presiding officer will inquire if there is any objection to ordering the previous question. If no member objects, further amendment or debate is cut off, except that the chairman of the standing committee which reported the measure back to the floor is given twenty minutes, either to use entirely or to yield to such members as he may indicate for all or any part of this time. If the committee report was unfavorable, the introducer is also allowed twenty minutes; if there was a minority report on the measure, signers of this report are allotted twenty minutes; but those aligned with the committee majority report always speak last. It appears that, in actual practice, the twenty-minute time periods allowed by the rules after ordering the previous question are rarely used.

The chair then asks if there is objection to the committee report on the bill being adopted, and if none, inquires if there is objection to ordering the main question. If a member objects to ordering any of these questions, an actual vote is taken.

VOTING

VOTING REQUIREMENTS

The State Constitution requires that a bill, in order to pass, must receive approval of a majority of the membership of each house. (This requirement is referred to as a "constitutional majority" in both houses.) The Constitution also requires that the final vote for passage in each house be recorded in the *Journal* of that body.[25]

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[25] Ga. Const. art. III, sec. VII, par. XIV.

Additionally, some actions–such as proposed constitutional amendments, overriding a veto, amending legislative rules during a session, and expelling a member–require special majorities (usually two-thirds of either the total membership or of those present).

Many of the procedural votes require only a majority of those present, provided a quorum is present. A Senate rule stipulates that amendments, motions, and procedural matters are to be decided by a simple majority of those present, unless otherwise provided by rules,[26] and that all other resolutions not otherwise provided for require a majority of the membership for approval. House rules specify that where no specific vote is provided by House rules for passage of any resolution, motion, or measure which will not become law, the vote must be by a majority of the membership, unless enacted by unanimous consent.[27]

Until voting begins on a bill or resolution, a measure may be withdrawn at any stage of the legislative process, with the consent of the House or Senate. However, should a bill or resolution be rejected in the final vote in either house, it may not again be proposed during the same session, under the same or any other title, without the consent of two-thirds of the house which rejected it.[28]

VOTING PROCEDURES

Subject to constitutional and statutory provisions, as well as the rules of that house, a vote on legislation or procedural questions in the House and Senate may be by unanimous consent, voice vote (viva voce), a show of hands (division), or a roll call (also called a vote by "yeas and nays").

Unanimous Consent: This is a procedure for voting or obtaining the permission of the members of a house to allow or dispense with some action (*e.g.*, to dispense with the required reading of the *Journal*). The presiding officer asks the members if there is objection to the motion or request being voted upon; if no member voices objection, the vote, motion, or request passes. If objection is raised, the ordinary procedures for voting are then used.

Viva Voce: This is a collective voice vote taken of the members present. The vote of the individual legislator is not recorded (unless a viva voce roll call has been called), and only the result of the vote–as interpreted by the presiding officer–is announced and recorded. If the presiding officer's interpretation is appealed, generally another procedure is used.

[26] Senate Rule 172.

[27] House Rule 187.

[28] Ga. Const. art. III, sec. VII, par. XIII.

Division: This is a vote by show of hands, where only the total number for and against a proposal is recorded. Historically, a division of a house was a call for the members of that house to rise and stand to one side of the chamber or the other to reflect their positions on a question. Now, when the presiding officer calls upon the members in favor of a question "to rise, stand, and be counted," the members reflect their position on the question by raising their hands.

Yeas and Nays: In this vote, each member is on record with respect to how he or she voted on a question. Such roll call votes are required in both houses on all proposed constitutional amendments and on all bills appropriating money.[29] Also, where a two-thirds vote of either or both houses is required for the passage of a bill or resolution, the yeas and nays must be taken and entered in the journal.[30] A roll call vote may be taken in the House if one-fifth of the members present so request;[31] and in the Senate if five members support a call for the yeas and nays.[32] A Senate rule allows the President to order a roll call vote on any matter, and the House follows this practice by custom.[33] Senate rules also provide for a roll call vote on the final vote of all general bills and resolutions having the effect of law, and on the adoption of all conference committee reports.[34]

In the Senate, all roll call votes must be taken on the electronic roll call voting system (if inoperative, a voice roll call is used).[35] In the House, the electronic voting system is used for yeas and nays, unless the Speaker orders a viva voce roll call vote.[36]

During a roll call vote, members in both houses are prohibited from attempting to explain their votes, though Senators may submit a written explanation (not to exceed 250 words) and Representatives a written explanation (not to exceed 200 words) for inclusion in their respective *Journals*.[37] Additionally, during a roll call vote, no debate is permitted in either house.[38]

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[29] *Ibid.*, art. III, sec. VII, par. XIX; art. III, sec. VII, par. XII.

[30] *Ibid.*, art. III, sec. VII, par. XIX.

[31] *Ibid.*, art. III, sec. VII, par. VI; House Rule 191.

[32] Senate Rule 176. However, see Senate Rule 185.

[33] Senate Rule 176.

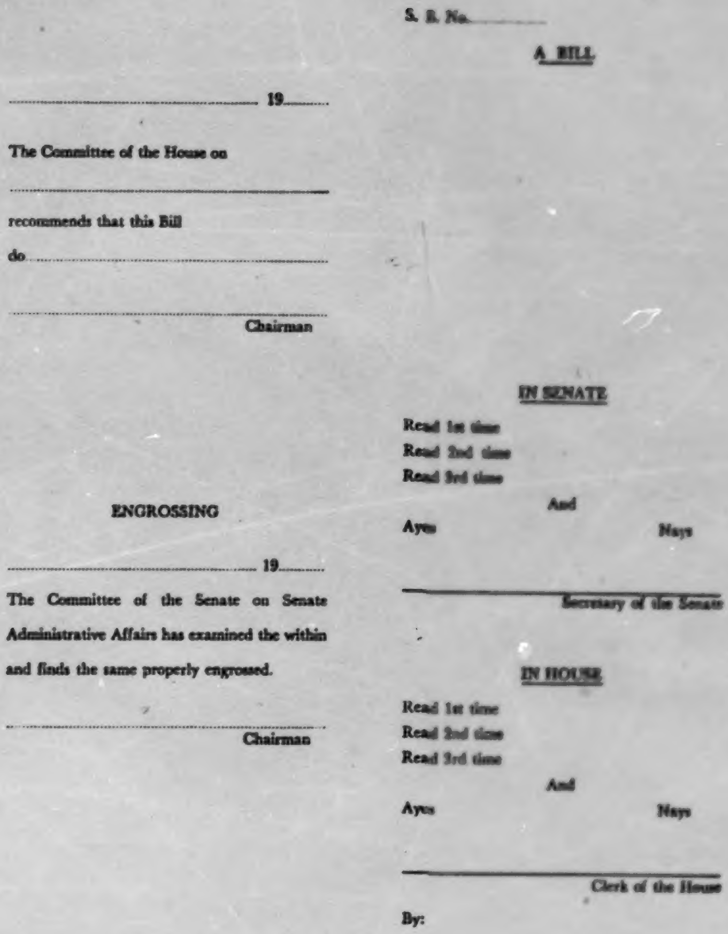
[34] *Ibid.*

[35] Senate Rule 177.

[36] House Rule 201.

[37] Senate Rule 182; House Rule 198.

[38] Senate Rule 183; House Rule 199.



S. B. No.……………

A BILL

…………………………………… 19……

The Committee of the House on

……………………………………

recommends that this Bill

do……………………………………

……………………………………
Chairman

ENGROSSING

…………………………………… 19……

The Committee of the Senate on Senate Administrative Affairs has examined the within and finds the same properly engrossed.

……………………………………
Chairman

IN SENATE

Read 1st time
Read 2nd time
Read 3rd time

And

Ayes Nays

Secretary of the Senate

IN HOUSE

Read 1st time
Read 2nd time
Read 3rd time

And

Ayes Nays

Clerk of the House

By:

Figure 15. COVER SHEET FOR AN ENGROSSED BILL

Voting in the House: On the desk of each Representative is a switch to be used by the member assigned to that seat to register his vote on the electric voting machine. The votes are flashed upon a large tally board placed on either side of the House, upon which the names of the members are arranged in alphabetical order. A green light signifies a "yes" vote on a particular question, while a red light signifies a "no" vote. After allowing adequate time for members to vote and to change their votes, if they so desire, the Speaker orders the voting machine to be locked. After the machine is locked, no member may change his vote, nor may any member absent at the time the vote was taken have his vote recorded.[39] The votes on the boards are permanently recorded on a tape, which is pulled at the conclusion of the vote on each question by the Clerk.

Voting in the Senate: The electronic voting system used in the Senate for taking roll call votes is similar in operation to that in the House, except (1) no Senator's vote is shown on the tally board until all Senators have voted and the machine is locked, and (2) the Senate system includes a digital countdown clock showing how much of the time alloted by Senate rules (60 seconds) for voting on each question remains before the machine is automatically locked (in contrast to the House, where the presiding officer determines when the machine is to be locked on a given vote).

In both houses, utilization of the voting machine in effect dispenses with the call for verification, since each legislator's vote is clearly visible, in addition to being automatically recorded and printed.

ENGROSSMENT

When a bill is passed by the House or Senate, it is engrossed by the Clerk or Secretary before transmittal to the other house. Engrossment is a proofreading and verification of a bill or resolution, as passed by that house, for the purpose of making certain that the copy being officiated is identical with the original bill as introduced and with all amendments which have been adopted.

At only one other time–on the day of introduction, at the time of first reading–is engrossment possible for a bill. If two-thirds of those voting, provided the total vote constitutes a quorum, approve a motion to engross a bill at the time of first reading, no amendments can be made to that bill while it is being considered in that house, unless subsequently referred to a committee.[40] In effect, the bill as introduced is engrossed–or

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39. House Rule 201.

40. Senate Rule 117; House Rule 132.

certified as the final copy–and it may not thereafter be amended in that house. No debate is permitted on this motion, except that the member making the motion may speak in favor of its passage for five minutes, and one other member may speak in opposition for a similar amount of time.

CONSIDERATION BY THE SECOND HOUSE

TRANSMITTAL

Following passage and engrossment of a bill in the house of origin, it is prepared for transmittal to the other house. The measure, however, cannot be transmitted on the same day that it passes in the house of origin unless two-thirds of the members voting (provided the total vote constitutes a quorum) so order.[41] An exception to this rule is that any bill or resolution which requires action by the Senate during the last three legislative days of a session shall be immediately transmitted.[42] Toward the end of a legislative session, time pressure causes members of both bodies to approve immediate transmittal of measures rather frequently.

AMENDMENTS

In the second house, a bill goes through substantially the same procedures as it did in the first. If passed in the second house without change, it is returned to the first house for enrollment (see page 147) and can then be sent to the governor. If, however, the second house makes changes in the bill, as is often the case, several options are available.

Assuming a House bill has been transmitted to the Senate, where additional amendments are added before passage, the bill is then returned to the House, which can agree to the Senate amendments. In that case, the bill is ready for enrollment and forwarding to the governor. If the House disagrees, however, to the Senate amendments, the Senate is so notified, and it then has the option of yielding on the matter. If the Senate insists on its position, the House is notified and can itself either yield or insist on its position. At this point, the general procedure for resolving the stalemate is appointment of a conference committee, if both houses so agree, to attempt to reconcile differences.

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41. Senate Rule 99; House Rule 116.
42. Senate Rule 99; House Rule 116.

CONFERENCE COMMITTEES

The rules of both houses contain identical and detailed provisions regarding the appointment and functions of conference committees.[43] Since neither the President of the Senate nor the Speaker of the House possess the express power to initiate the appointment of a conference committee, it must be initiated by a member (any member) making a motion for the appointment, with this motion sustained by the body. When this happens, the presiding officer of that body must appoint three members to serve on the committee from that house. Each of the three members appointed, however, must have voted with the majority on the position assumed by his house on the bill, if the vote has been taken. The contrast should be noted that the rules of some legislatures do not require that all members of a conference committee be on the prevailing side of their house, and some even expressly state that both majority and minority views of each house must be represented on these committees.

The purpose of the conference committee is to attempt to reach an agreement or compromise on the points of dispute between the two houses on the bill. To this end, the rules provide that the committee may consider the entire subject matter of the bill and recommend revision by either house, new amendments, new bills and resolutions, or other germane changes. Either house may instruct its members as to what actions they are to take. The instruction, in order to be binding on the members, must be approved by the body on motion, before the members are appointed to the committee.

The conference committee is not free to hold the bill for an indefinite period of time without taking action. Indeed, the rules provide that if a conference committee has been in existence for five days without reporting on the bill, any legislator may move: (1) to discharge his house's members on the committee and appoint new members; (2) to instruct these members; or (3) to take other action not contrary to the rules of his house. The motion, to be successful, must receive a majority vote of the members elected to that body. During the last five days of the legislative session, this motion may be made and passed at any time (but no more often than every three hours) whether the conference committee has been in existence for five days or not.

Before a conference committee report can be transmitted to either the Senate or the House for action, it must be approved by a majority vote of the entire membership of the committee. Once approved, the report must be printed and distributed to the members of each house,

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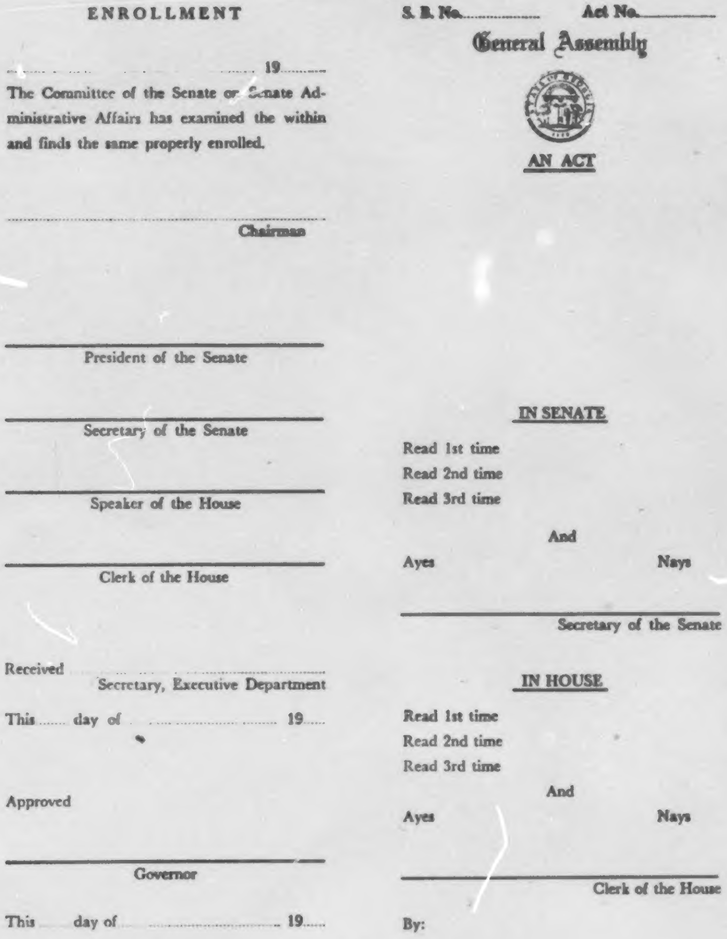
[43] Senate Rule 161; House Rule 176.



ENROLLMENT

.... 19........

The Committee of the Senate on Senate Administrative Affairs has examined the within and finds the same properly enrolled.

....
Chairman

President of the Senate

Secretary of the Senate

Speaker of the House

Clerk of the House

Received ....
Secretary, Executive Department

This .... day of .... 19.....

Approved

Governor

This .... day of .... 19.....

S. B. No.................. Act No.................

General Assembly

AN ACT

IN SENATE

Read 1st time
Read 2nd time
Read 3rd time

And

Ayes Nays

Secretary of the Senate

IN HOUSE

Read 1st time
Read 2nd time
Read 3rd time

And

Ayes Nays

Clerk of the House

By:

Figure 16. COVER SHEET FOR AN ENROLLED BILL

unless that house dispenses with this step by a majority vote of all its members.

The report of the conference committee must be adopted by the Senate or the House only by the vote which is required to pass the bill, resolution, or matter under consideration.[44] If both houses adopt the conference committee's report or settlement and enact exactly the same amended bill, it is transmitted to the governor. In case one of the houses fails to adopt the report or recommendations, the conference committee may be directed to meet and report again; or it may be dissolved and a new committee appointed. The majority of compromise reports of conference committees appears to be accepted by the two houses.

ENROLLMENT

Enrollment is the preparation of the final copy of a bill or resolution which has passed both houses in identical form. Every bill or resolution enrolled must be certified by the presiding officer of each house, the Clerk of the House, and the Secretary of the Senate, before it is sent to the Governor for his approval and signature. The enrolled copy of a bill or resolution enacted into law is permanently preserved by the Office of the Secretary of State and is the official text of the act. Thereafter, the Secretary of State deposits the session acts in the archives and has them printed and distributed throughout the state.

ACTION OF THE GOVERNOR

Prerogatives of the Governor: After a bill has been passed by both houses of the General Assembly, it must be sent to the governor. The governor then has five days (excluding Sundays) to take action on that bill, providing the legislature will remain in session during that time. He may approve the bill and sign it, in which event the bill becomes a law. The governor may choose not to sign the bill, nor to return it to the legislature, and the bill automatically becomes law at the end of the five days without his signature.[45] Or the governor may veto the bill, in which event he returns the vetoed bill to the house of its origin.

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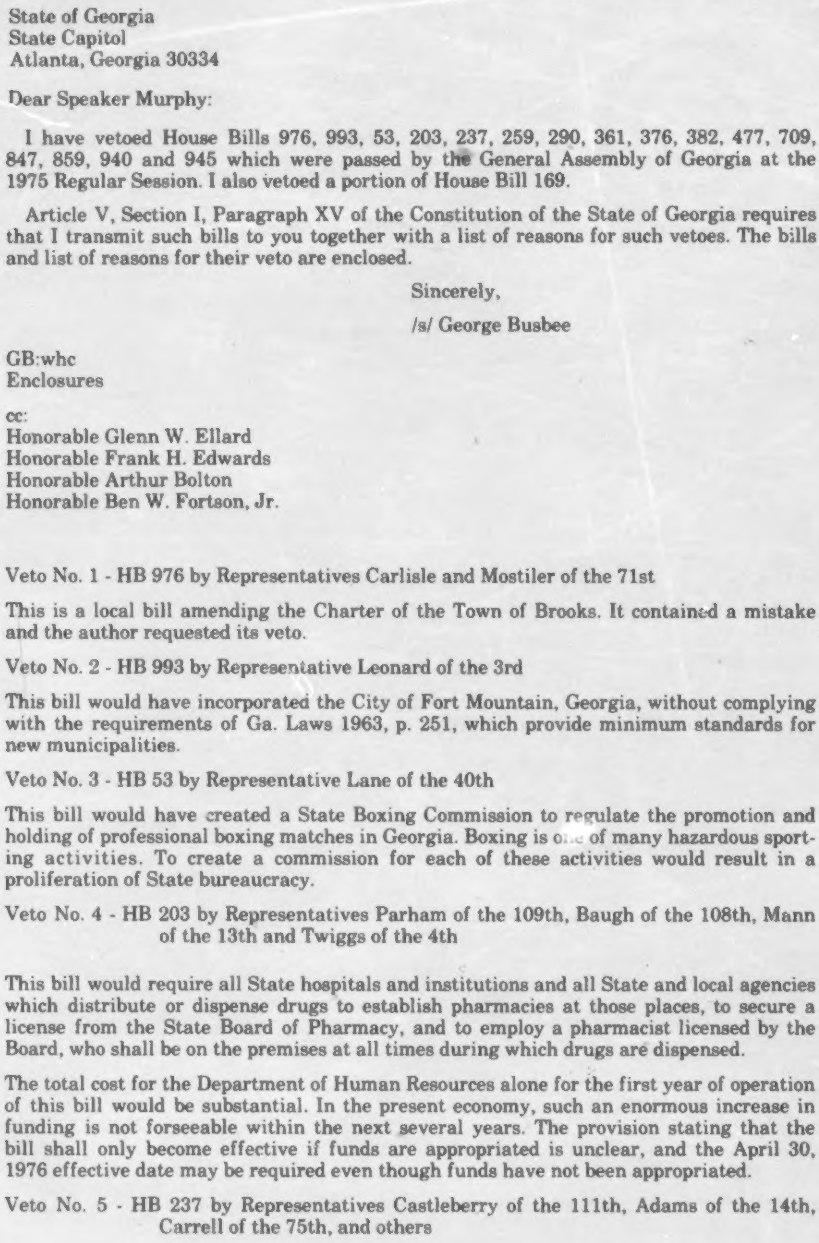
[44] Senate Rule 161; House Rule 176.

[45] Ga. Const. art. V, sec. I, par. XV.



State of Georgia
State Capitol
Atlanta, Georgia 30334

Dear Speaker Murphy:

I have vetoed House Bills 976, 993, 53, 203, 237, 259, 290, 361, 376, 382, 477, 709, 847, 859, 940 and 945 which were passed by the General Assembly of Georgia at the 1975 Regular Session. I also vetoed a portion of House Bill 169.

Article V, Section I, Paragraph XV of the Constitution of the State of Georgia requires that I transmit such bills to you together with a list of reasons for such vetoes. The bills and list of reasons for their veto are enclosed.

Sincerely,

/s/ George Busbee

GB:whc
Enclosures

cc:
Honorable Glenn W. Ellard
Honorable Frank H. Edwards
Honorable Arthur Bolton
Honorable Ben W. Fortson, Jr.

Veto No. 1 - HB 976 by Representatives Carlisle and Mostiler of the 71st

This is a local bill amending the Charter of the Town of Brooks. It contained a mistake and the author requested its veto.

Veto No. 2 - HB 993 by Representative Leonard of the 3rd

This bill would have incorporated the City of Fort Mountain, Georgia, without complying with the requirements of Ga. Laws 1963, p. 251, which provide minimum standards for new municipalities.

Veto No. 3 - HB 53 by Representative Lane of the 40th

This bill would have created a State Boxing Commission to regulate the promotion and holding of professional boxing matches in Georgia. Boxing is one of many hazardous sporting activities. To create a commission for each of these activities would result in a proliferation of State bureaucracy.

Veto No. 4 - HB 203 by Representatives Parham of the 109th, Baugh of the 108th, Mann of the 13th and Twiggs of the 4th

This bill would require all State hospitals and institutions and all State and local agencies which distribute or dispense drugs to establish pharmacies at those places, to secure a license from the State Board of Pharmacy, and to employ a pharmacist licensed by the Board, who shall be on the premises at all times during which drugs are dispensed.

The total cost for the Department of Human Resources alone for the first year of operation of this bill would be substantial. In the present economy, such an enormous increase in funding is not forseeable within the next several years. The provision stating that the bill shall only become effective if funds are appropriated is unclear, and the April 30, 1976 effective date may be required even though funds have not been appropriated.

Veto No. 5 - HB 237 by Representatives Castleberry of the 111th, Adams of the 14th, Carrell of the 75th, and others

Figure 17. GOVERNOR'S VETO MESSAGE

As noted, bills enacted into law are given act numbers by the Office of the Governor in the order in which they were signed. This can become an important legislative tool for the governor. Two or more bills dealing with the same subject area may be passed at one legislative session, which are discovered later to contain incompatible provisions. The order in which the governor signs these bills determines which bill will take precedence, with the bill signed last assuming priority.[46] Working within the time limits specified in the Constitution for signing bills sent to his office, the governor often finds himself in the position of determining which bill shall represent the "latest expression of legislative intent," and thus which bill will be controlling with regard to the incompatible provisions.

The procedure for assigning act numbers is as follows. When more than five days are left in a legislative session, all bills sent to the governor are given act numbers in the order in which they are signed by the governor or are enacted into law after five days without his signature.

For bills received from the General Assembly during the last five days of a session, the governor has thirty days following adjournment to take action. Act numbers are given first to those bills which the governor signs during this period, in the order he signs them. Then, all bills which the governor did not sign nor veto (and which were thereby automatically enacted by operation of law) are given subsequent act numbers, along with any vetoed bills which the General Assembly might have overridden. It should be noted that in the second session of a biennium (*i.e.*, in even-numbered years), act numbers are assigned consecutively from the number of the last act in the previous session.

Overriding a Veto: When the governor vetoes a bill, he returns the vetoed bill to the house of its origin. Apparently, there is no requirement that the governor state his reasons for vetoing a bill when that veto takes place with more than five days left in the session.[47] The bill is dead unless the General Assembly overrides the veto by a two-thirds vote of the total membership in each house. If a veto is overridden, the bill becomes a law without the approval of the governor.[48] If, however, the General Assembly fails in its attempt to override a veto, that bill cannot again be brought before the legislature for the purpose of overriding the governor's action.[49]

46. *Keener v. MacDougall*, 232 Ga. 273, 206 S.E. 2d 519 (1974); *County of Butts v. Straham*, 151 Ga. 417, 107 S.E. 63 (1921).

47. Ga. Const. art. V, sec. I, par. XV. See also Jack B. Hood, "History of the Veto Power in Georgia," 8 *Georgia State Bar Journal* 513, 529 (May 1972).

48. See footnote 47, *supra.*

49. See footnote 47, *supra.*

No Pocket Veto: If the General Assembly adjourns before the expiration of the five days after the bill has been presented to him, the governor then has a period of thirty days (excluding Sundays) in which to approve the bill. The governor's failure to approve the bill within this thirty-day period results in that bill's becoming law without his approval.[50] Georgia thus joins thirty-four other states in *not* providing for the "pocket veto" (where bills sent to the state's chief executive in the closing days of a session are, in effect, vetoed unless he specifically signs the bills within the specified number of days after adjournment).[51]

Special Procedures: Special procedure is established whereby, in session years not immediately preceding the general election for governor, the legislature can override the veto of legislation upon which the governor did not act until after adjournment of the body.[52] This procedure requires the governor to return a vetoed bill, together with his reasons (if any) for the veto, to the house in which it originated within thirty-five days (excluding Sundays) from the adjournment of the session at which the bill was passed. Within the first ten days of the next regular session of the General Assembly, the originating house can take action on overriding the veto, by a two-thirds vote of its members. If the veto is thus overridden in that house, the bill is then immediately transmitted to the other house and the presiding officer there is required to see that the bill is considered. Upon a two-thirds overriding vote in that house, the bill becomes law. If either house should fail to override the veto, no further action can be taken on the bill by the General Assembly for that purpose.

Constitutional Amendments: Georgia's Constitution prohibits a governor from vetoing or entering his disapproval of any proposed constitutional amendment passed by the General Assembly.[53] There is no guidance, however, as to whether he may sign a proposed amendment, or what effect–other than symbolic–such signature would have. In practice, some proposed amendments are signed by the chief executive, and others not signed.

Other Resolutions: The Constitution makes specific provision that every resolution, vote, or order, to which the concurrence of both houses of the General Assembly may be necessary–excepting questions of election, adjournment, and proposed constitutional amendments–must be presented to the governor for his approval before taking effect.[54] Exempted from executive veto are veto overrides, votes to prolong a session by means of interim adjournment,[55] and votes for the self-convening of a special session.[56]

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[50] See footnote 47, *supra.*

[51] *Book of the States, 1976-77,* pp. 70-71.

[52] Ga. Const. art. V, sec. I, par. XV.

[53] *Ibid.*, art. V, sec. I, par. XVI. Three other states–Hawaii, Louisiana, and Maryland–also have constitutional prohibitions against executive veto of proposed constitutional amendments. *Book of the States, 1976-77,* pp. 70-71.

There is a dearth of judicial interpretation of the provision for gubernatorial approval of resolutions requiring the concurrence of both houses. In one instance, the court held that approval of an officeholder's suspension could be accomplished by simple resolution in each house, and thus the governor's approval was not needed.[57]

Item Veto: The governor is empowered to exercise an item veto on appropriation bills. Unlike the President of the United States, who must accept or reject a bill in its entirety, the Governor of Georgia may approve portions of an appropriation bill and disapprove other portions. Only seven states (including North Carolina, which has no provision for executive veto of any legislation) do not provide for item veto of at least appropriation measures.[58]

Use of the Veto: The power of veto has, of course, been used in varying degrees by different governors (see Table 10). It should be noted that the veto—or threat of the veto—is a powerful legislative tool for the governor. While it may be overridden by the legislature, only very rarely is this ever done. The small number of vetoes overridden probably attests to the difficulty of obtaining a two-thirds vote of the total membership in each house, and to the selectivity of governors in using the veto.

EFFECTIVE DATE OF LEGISLATION

In most cases, a bill is passed on different dates in each of the two houses, with approval first occurring in the house of origin. The day of approval in the second house—providing both houses have agreed on the language of the measure—is often thought of as the bill's "date of passage." This date, however, is of no particular legal significance, as the bill is then proofed, certified, and enrolled. Sometimes a month or more may lapse before a bill is ready for forwarding to the governor.

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54. Ga. Const. art. V, sec. I, par. XVI.
55. *Ibid.*, art. III, sec. VII, par. XXI.
56. *Ibid.*, art. V, sec. I, par. XII.
57. *Gray v. McLendon*, 134 Ga. 224, 243-44, 67 S.E. 859 (1910).
58. *Book of the States, 1976-77*, pp. 70-71.

TABLE 10

SUMMARY OF LEGISLATIVE WORKLOAD: 1971-1976

	Biennium		Biennium		Biennium	
Session	1971*	1972	1973	1974	1975*	1976
Number of Days in Session	45	40	45	40	45	40
Bills Introduced	1447	1339	1662	1171	1636	1182
Bills Carried Over from Previous Session		556		808		746
Resolutions Introduced	694	708	675	586	693	799
Resolutions Carried Over from Previous Session		217		213		179
TOTAL MEASURES CONSIDERED	2141	2820	2337	2778	2329	2906
Bills Lost or Unfavorably Reported	61	94	54	105	110	126
Resolutions Lost or Unfavorably Reported	16	60	7	30	17	33
TOTAL LOST	78	154	61	135	127	159
Bills Passed	830	779	800	677	780	709
Resolutions Passed	459	482	455	436	497	649
TOTAL ADOPTIONS	1289	1261	1255	1113	1277	1358
Bills Vetoed by Governor	16	24	45	52	20	19
Resolutions Vetoed by Governor	4	8	4	1	0	1
TOTAL VETOES	20	32	49	53	20	20
Bills Left Pending at End of Session	556	1022	808	1197	746	1093
Resolutions Pending at End of Session	217	443	213	333	179	296
TOTAL MEASURES PENDING	773	1465	1021	1530	925	1389

*Does not include special sessions held in 1971 and 1975.

The Georgia Supreme Court has ruled that a bill becomes a law *not* when it is passed by the two houses of the legislature, but when it is approved by the governor, when it becomes law without his signature after the lapse of time specified in the Constitution, or when the legislature overrides the governor's veto.[59] Thus, notations in the annual session laws following each act–such as "Approved March 31, 1976"–refer to the date that the bill became law, not the date of passage in the legislature.

The *effective date of an act* is that date on which its provisions assume the force of law, superseding any conflicting provisions of previous acts dealing with the same subject matter. The effective date of an act can differ from the date that bill was enacted into law, depending on whether the bill provided for an effective date.

Regardless of when signed, the effective date of a general bill passed at a regular session of the General Assembly is the following July 1, unless a specific date was provided for in the legislation.[60] Often a general bill will specify that it shall become effective upon approval of the governor, or upon its becoming law without his approval. However, if there is no specific date enumerated, the bill's effective date is July 1 (providing the bill was enacted into law between January 1 and June 30 of that same year). The effective date of a general bill enacted between July 1 and December 30 (as in the case of bills passed at special sessions held after July 1) is the first day of January of the immediately succeeding calendar year, provided no effective date was set forth in the bill.[61]

The above provisions do not apply to local legislation nor to resolutions intended to have the effect of law. For local legislation, a bill's effective date is immediate upon approval of the governor, or upon its becoming law without his approval, unless a specific date is provided for in the bill itself. Resolutions which will have the effect of law become effective with the governor's signature (or by operation of law without his signature), except in the case of proposed constitutional amendments.

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59. *Floyd County v. Salmon*, 151 Ga. 313, 106 S.E. 280 (1921); *Ross v. Jones*, 151 Ga. 425, 107 S.E. 160 (1921); *Walker v. City of Rome*, 16 Ga. App. 817, 86 S.E. 628 (1915).

60. Ga. Code Ann. sec. 102-111.

61. *Ibid.*

Chapter VII

Rules of Procedure

Veteran members in the General Assembly observe that, to be an effective legislator, a member must be thoroughly familiar with the rules of his house. The knowledge, or lack of knowledge, of a particular rule often means the difference between succeeding and failing in a legislative undertaking.

After the two houses have been organized at the beginning of a legislative biennium, one of the first actions taken by each is the adoption of its own rules of procedure. Subject to constitutional provisions and statutory enactments which affect legislative operations, the House and Senate are free to adopt completely new rules at each session, without reference to the rules of past sessions. Such a course is infrequently followed. The rules of the preceding session, sometimes modified, are invariably adopted by the Senate and the House. On occasion, a committee is appointed to revise the rules between sessions and to report its work to the next session. These procedural rules are in addition to, or an elaboration on, constitutional and statutory provisions governing the houses.

The procedural rules in both the Senate and the House require adoption by a majority of a quorum, and no change in, or addition to, them can be made unless the proposal to do so is referred in writing to the Committee on Rules.[1] If the committee does not report the proposed change or addition back to the House or Senate within two days, the proposal automatically comes before the body for consideration.[2] Resolu-

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[1] Senate Rule 227; House Rule 250.

[2] Senate Rule 227; House Rule 250.

Figure 18. LEGISLATIVE RULES

Engrossment at first reading.
Debate.
No unanimous consent.
Restricts amendment.

Rule 120. A motion to engross a bill may be made upon reading the bill the first time, and at no other time. When a motion to engross is made, no debate shall be permitted, except that the movant may speak to his motion not longer than 5 minutes, and any one other Senator may speak in opposition thereto for 5 minutes. No bill or resolution shall be engrossed except upon the affirmative vote of two-thirds of the Senators voting, provided the total vote constitutes a quorum. No Senator shall be recognized at any time for the purpose of asking unanimous consent to engross a bill or resolution. In case of engrossment of any bill or other matter the entry thereof shall be made by the Secretary, and the bill or other matter shall not be amendable thereafter unless subsequently committed.

Readings required.

Rule 121. Every bill, before it shall pass, shall be read three times, and on three separate days, in each House, unless in cases of actual invasion, or insurrection, but the first and second reading of each local bill, shall consist of the reading of the title only, unless said bill is ordered to be engrossed.

(Ga. Const., art. III, sec. VII, par. VII.)

No debate at first or second reading.

Rule 122. Any bill or resolution shall be automatically passed to a second reading on the legislative day following that day the bill or resolution shall be reported by the Committee to which it was referred. Except that after the thirty-fifth (35th) day of the 1973 regular session, every bill and resolution shall be read a second time on the same legislative day that the bill or resolution is reported by the Committee to which it was referred. No debate shall be admitted upon any bill at the first or second reading.

USE OF COMMITTEES.

Reference by President.
Unless otherwise ordered.

Rule 123. Upon the introduction of any bill or resolution or other matter, requiring reference to a committee, the President shall as a matter of course and without debate refer the same to the proper committee, unless otherwise ordered by the Senate.

No defacement.
Reporting amendments.

Rule 124. No Committee of the Whole or other committee shall deface or interline a bill, resolution, or other paper referred to said committee, but shall report any amendment recommended, on a separate paper, noting the section, page, or line to which said amendment relates.

Form of reports.

Rule 125. All reports of a committee shall be in writing, and the minority of a committee may make a report in writing, setting forth succinctly the reasons for their dissent.

Action on report.
Notice of motion to disagree.
Time limit on motion to disagree.

Rule 126. If the report of a committee is favorable to the passage of a bill or resolution, the same shall be placed on the general calendar for a third reading without question, unless recommitted. If the report of a committee is adverse to the passage of a bill or resolution, in order to have a third reading thereof, a Senator must give notice of intention to move to disagree with such adverse committee report by not later than adjournment of the next legislative day following the unfavorable committee report. In such case the bill or resolution shall be placed on the calendar. The question shall be upon agreeing to the tions amending the rules of either house during the session require adoption by two-thirds of the members voting (provided such two-thirds constitutes a majority of the members elected to that house).[3]

Since the rules of procedure of both houses are numerous and comprehensive, they would appear to govern the majority of situations which might arise in the conduct of the legislature's business. They do, however, provide for a question which is not covered to be controlled by the rules usually governing legislative bodies.[4] The legislatures of many states go further than that, and adopt, ordinarily by reference, a standard manual of parliamentary procedure (*e.g.*, Mason's Manual of Legislative Procedure; Robert's Rules of Order; Jefferson's Manual of Parliamentary Practice) to deal with unusual or infrequent situations not provided for by the state constitution, statutes, or their own rules of procedure. These manuals are supplementary and govern only where they are not inconsistent, at least in spirit, with the standing rules of the adopting body.

This chapter attempts to set forth, in as simple terms as possible, some of the most important rules of procedure of the two houses of the Georgia General Assembly. (The complete current rules of each house are published in the booklets supplied by the Office of the Secretary of State.)

QUORUM

A quorum is the number of members of a body required to transact business officially in the absence of other members. The Constitution of Georgia declares that a majority of the members of each house shall constitute a quorum of the General Assembly.

When there is no quorum, a smaller number can adjourn from day to day and take measures to compel the presence of the absent members.[5] When it is discovered that a quorum is not present, the roll is to be called and the absentees noted. (A motion to this effect must first have been made and sustained by five members in the Senate or one-fifth of the members present in the House.) Then the doors of the chambers are to be closed and the names of the absentees called again. Those who do not appear at that time, and who are absent without leave, may, by order of a majority of the members present, be sent for and arrested by officers appointed by the messenger. The body may then determine upon what conditions these members are to be discharged.[6]

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[3] Senate Rule 39; House Rule 40.

[4] Senate Rule 226; House Rule 249.

[5] Ga. Const. art. III, sec. IV, par. IV.

The rules of both houses also provide for the presiding officer to order the roll called and the vote taken by yeas and nays on any question where a division of the body discloses the fact that a quorum has not voted.[7]

In many cases, no point is ever raised as to the lack of a quorum. In carrying out the opening business of a day's session and in voting on local bills and similar matters, it appears customary for the General Assembly to ignore the lack of a quorum.

ORDER OF BUSINESS IN THE TWO HOUSES

Each house of the General Assembly provides, in its rules, for the order in which it will conduct its business.

The daily order of business in the Senate is as follows:[8]

(1) Report of the Committee on the Journal.
(2) Reading of the journal.
(3) Motions to reconsider.
(4) Confirmation of the journal.
(5) Introduction of bills and resolutions.
(6) First reading and reference of Senate bills and resolutions.
(7) First reading and reference of House bills and resolutions, also in order at any later time when no other business is pending.
(8) Reports of standing committees.
(9) Second reading of bills and resolutions.
(10) Third reading and passage of local, uncontested bills and resolutions.
(11) Call of the roll.
(12) Prayer of the chaplain.

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[6] Senate Rule 53; House Rule 56.
[7] Senate Rule 27; House Rule 28.
[8] Senate Rule 33.

(13) Unanimous consents.

(14) Third reading and consideration of general bills and resolutions.

Senate rules provide that the report of its Rules Committee and messages from the governor or the other house are in order at any time and may be received under any order of business.[9]

The rules of the House of Representatives set the following order of business:[10]

(1) Call of the roll.

(2) Scripture reading and prayer by the chaplain.

(3) Report of the Committee on the Journal.

(4) Reading the journal.

(5) Confirmation of the journal.

(6) Unanimous consents.

(7) Motions to reconsider.

(8) Introduction of bills and resolutions.

(9) First and second readings and reference of House bills and resolutions.

(10) Report of standing committees.

(11) Readings of bills and resolutions favorably reported.

(12) Third reading and passage of uncontested local bills and resolutions.

(13) First and second readings and reference of Senate bills and resolutions.

(14) Unfinished business of previous session (meaning a daily session).

(15) Orders of the day.

(16) Senate amendments to House bills and resolutions and reports of conference committees.

(17) House bills and resolutions for third reading.

In both houses, all questions on the priority of business to be acted on are decided by the presiding officers without debate, unless Senate rules provide otherwise.[11]

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9. Senate Rule 42.

10. House Rule 35.

11. Senate Rule 24; House Rule 25.

MOTIONS IN THE GENERAL ASSEMBLY

In general parliamentary law, a motion is defined as, "the formal mode in which a member submits a proposed measure or resolve for the consideration and action of the meeting."[12]

In more common language, it might be said that, in the General Assembly of Georgia, a motion is the means by which a member proposes that certain actions be undertaken or procedures followed during legislative deliberation. Through the presiding officer, this proposal is put to a vote of the membership.

To understand procedure in the Georgia General Assembly, one must have a knowledge of the various kinds of motions it employs, which are discussed in the pages that follow.

Various provisions in the rules of both houses relate to motions in general: (1) No member can make more than one motion at a time; after making this motion, he must resume his seat unless again recognized by the presiding officer.[13] (2) No member may speak on a question and then cut off debate by a motion without relinquishing the floor. (3) When a motion is made by a member, it need not be seconded before being put to the body for a vote.[14] (4) After a motion is stated by the presiding officer or read by the Clerk or Secretary, it is deemed to be in possession of that house, but may be withdrawn by unanimous consent of that body at any time before being decided.[15]

Precedence of Motions in the Two Houses: Needless to say, many different motions are made at each session. Were there not some established order in which the body could handle those motions made simultaneously and in the heat of discussion, much confusion and delay of the legislative process might result.

Regarding the order in which motions may be considered, the rules of the House and Senate declare that, when any subject is being considered or debated, only nine kinds of motions may be received. These motions and their order of precedence are:[16]

(1) A motion to adjourn

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[12] Black, *Law Dictionary* (4th ed. 1951).

[13] Senate Rule 70; House Rule 78.

[14] Senate Rule 69; House Rule 77.

[15] Senate Rule 68; House Rule 76.

[16] House Rule 75; Senate Rule 67.

(2) A motion to lay on table
(3) A motion for the previous question
(4) A motion to adjourn to a time definite
(5) A motion to postpone indefinitely
(6) A motion to postpone to a day certain
(7) A motion to commit
(8) A motion to amend
(9) A motion to print

THE MOTION TO ADJOURN

First in order of precedence, the motion to adjourn is made for the purpose of terminating the business of the body (see pp. 30-31 for discussion of adjournment). When this motion is passed in its simplest form, it has the effect of adjourning that house to the "next sitting day or time in course" (10 a.m. the next legislative day, excluding Sundays).[17] Both houses provide that the motion to adjourn can be made at any time that the member so moving can legitimately obtain the floor.[18]

At certain times, however, this motion cannot be made. When a member calls for the previous question, the presiding officer puts two questions to the body. The first is: "Shall the call of the previous question be sustained?" If a majority votes in the affirmative on this question, then the second question is: "Shall the main question be now put?" After a majority has voted affirmatively on this second question, the motion to adjourn cannot properly be made.[19] In the House of Representatives, after the call for the previous question, a motion to adjourn, as well as a motion to lay on the table, can be made only once.[20] In the Senate, apparently this limitation does not exist.[21]

If the hour of adjournment has been fixed by a previously enacted resolution of the body, and this time arrives immediately after the motion for the previous question has been sustained, the rules of both houses provide that the body stands adjourned.[22] If this time arrives after the body has begun to vote on the main question, either by a division or by yeas and nays, both sets of rules declare that there can be no adjournment until the vote has been completed and announced.[23]

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[17] Senate Rule 77; House Rule 84.
[18] Senate Rule 73; House Rule 80.
[19] Senate Rule 74, 165; House Rule 81, 180.
[20] House Rule 180.
[21] See Senate Rule 165.
[22] Senate Rule 78; House Rule 85.

The motion to adjourn is also prohibited when the first name has been called in a roll call vote, and one vote has been given. It is also forbidden after a division of the body has been held on a vote, and when the counting and announcements are in process.[24] In the House of Representatives, the motion to adjourn is not in order once the Speaker has unlocked the electric roll call system to permit the members to vote on a question.[25] In all these voting situations, a motion to adjourn is again in order after the result of the voting is finally announced.

A simple motion to adjourn is not debatable and cannot be amended.[26] But one to adjourn to a particular day or for a particular time goes beyond the simple form, and different rules apply. If made when the body is not actually engaged in other business, the motion to adjourn for a stated period may be debated and amended by substituting a day or time other than the one originally proposed.[27]

Once the motion to adjourn has been made and has failed to carry, it cannot be made again until the body has proceeded further with its business.[28]

THE MOTION TO LAY ON THE TABLE

Ranking second in order of precedence in both houses is the motion to lay on the table. The rules of both houses state that, when this motion prevails, "it removes from the consideration of the House (Senate) the measure, together with all the motions attached to it at the time."[29]

The motion to lay on the table is usually made by a member who is unfriendly to the measure being considered. Sometimes, however, a member favoring a measure will deem it expedient to make a motion to table.

In neither house of the General Assembly is the motion to lay on the table, or the motion to take from the table, debatable or amendable.[30]

[23] Senate Rule 78; House Rule 85.

[24] Senate Rule 74; House Rule 81.

[25] House Rule 81.

[26] Senate Rule 75; House Rule 82.

[27] Senate Rule 76; House Rule 83.

[28] Senate Rule 75; House Rule 82.

[29] Senate Rule 86; House Rule 94.

[30] Senate Rule 84; House Rule 92.

This means, of course, that once the motion is made, an immediate vote on it ensues. Should it fail to carry, the motion can be renewed when new business has intervened between the votes.[31]

The rules of both houses prohibit the tabling of an amendment,[32] and state that nothing can be legitimately laid upon the table that cannot be taken up again.[33] As an example, if a matter can be decided at a particular time but will be past deciding subsequently, it probably could not be legitimately tabled.

The motion to table is apparently in order at any time in both houses, except when, on a call for the previous question, the body has voted affirmatively that "the main question shall now be put."[34] In the House of Representatives, after the call for the previous question, a motion to lay on the table or a motion to adjourn may be made only once.[35]

The rules of the House make further exceptions which are applicable at all times when it is not acting under the previous question–namely, that a motion to table may not be made: (1) when one vote has been recorded in a yea and nay vote on a bill or resolution; or (2) when the Speaker has unlocked the electrical voting machine for voting on a bill or resolution.[36] But a measure may be tabled after completing the roll call vote, which will prolong the announcement of the vote result until the measure is taken from the table, at which time nothing can be done except to announce the result.[37] The rules of the Senate do not allow prolonging the announcement of a vote, and the rules of some state legislatures expressly provide that there be no delay.

The motion to table is not a final action. Both houses require the affirmative vote of a majority of a quorum in order to take up a measure which has been laid on the table.[38] This may be done at any time the body is not engaged on any other measure. When removed from the table, the proposition is placed in its original position on the calendar.[39] The rules of the two houses provide that this measure then stands before the body in the exact form, with all the motions pertaining to it, as it did when it was tabled.[40]

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[31] Senate Rule 85; House Rule 93.

[32] Senate Rule 85; House Rule 91.

[33] Senate Rule 84; House Rule 90.

[34] Senate Rule 83; House Rule 88.

[35] House Rule 180.

[36] House Rule 89.

[37] *Ibid.*

[38] Senate Rule 89; House Rule 95.

[39] Senate Rule 89; House Rule 95.

THE MOTION FOR THE PREVIOUS QUESTION

The motion for the previous question is designed to cut short the debate on a measure and to bring that measure, the "main question," to a vote, and has precedence over all other motions except those to adjourn and to lay on the table.[41]

The motion for the previous question may be stated by a member so that it applies only to a single motion or amendment; or it may be made to embrace all authorized motions, amendments, and the entire bill.[42]

Once the motion for the previous question is made, it is decided without debate.[43] The presiding officer states the motion to the body as two questions. The first is: "Shall the motion for the previous question be sustained?" The rules of both houses provide that if this question is decided in the affirmative by a majority of those voting (provided the total vote constitutes a quorum), the presiding officer will then ask: "Shall the main question be now put?" If this question receives the required affirmative vote, then the bill under consideration is voted on by the body.[44]

The rules of both the Senate and the House provide that once the body has decided that the main question is to be put, no other motion is in order except one to reconsider the body's action. Even a motion to reconsider, however, is not in order when one vote has been given on a yea and nay vote, or when a division of the body has been held on a vote, or, in the House of Representatives, when the Speaker has unlocked the electrical voting machine for a roll call vote.[45]

A motion to reconsider the ordering of the main question can be made only once, and its passage, in effect, repeals the ordering of both the previous and the main questions, leaving the bill under consideration open again to debate and amendment.[46]

If incidental questions of order arise after a motion for the pre-

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40. Senate Rule 86; House Rule 94.
41. Senate Rule 165; House Rule 180.
42. Senate Rule 162; House Rule 177.
43. Senate Rule 166; House Rule 180.
44. Senate Rule 166; House Rule 180.
45. Senate Rule 166; House Rule 180.
46. Senate Rule 170; House Rule 185.

vious question is made, and pending this motion, they are decided without debate.[47]

THE MOTION TO ADJOURN TO A TIME DEFINITE

A motion to adjourn to a time definite (or to adjourn to a particular day or for a particular time) is, of course, simply a qualified motion to adjourn. As noted previously, it differs from a simple motion to adjourn in that it may be debated if made when the Senate or House is not actually engaged in other business. In both houses, it may be amended by substituting a day or time other than the one originally proposed.[48]

The "motion to adjourn to a time definite" takes precedence over any other motion except a simple motion to adjourn, to lay on the table, or a motion for the previous question.

THE MOTION TO INDEFINITELY POSTPONE

Next in order of precedence in both houses is the motion to indefinitely postpone. This motion offers an effective method of killing a bill without a vote upon its merits. The motion to indefinitely postpone lays open for debate the whole question under consideration, but is itself not amendable.[49]

The rules of both houses specify that the motion to indefinitely postpone takes precedence over, but cannot be applied to the following motions: (1) a motion to postpone to a day certain, (2) a motion to commit, and (3) a motion to amend.[50] Further, the motion to indefinitely postpone cannot be applied to incidental questions such as those of order, reading of papers, withdrawal of a motion, or suspension of a rule.[51]

An affirmative vote of a majority of those voting (provided the total vote constitutes a quorum) is necessary in both houses for the passage of the motion to indefinitely postpone.[52] Should this motion be made and carried as to a bill, resolution, or other measure under consideration which is on its third and final reading, that measure is thereby disposed of for the remainder of the session.[53] Once, however, the motion to indefinitely postpone any bill, resolution, or other measure has failed to carry, it cannot be made again.[54]

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[47] Senate Rule 168; House Rule 183.

[48] Senate Rule 76; House Rule 83.

[49] Senate Rule 89; House Rule 97.

[50] Senate Rule 88; House Rule 96.

[51] Senate Rule 88; House Rule 96.

[52] Senate Rule 91; House Rule 99.

THE MOTION TO POSTPONE TO A DAY CERTAIN

The motion to postpone a measure to a day certain, when carried, removes the measure from the body's consideration until the time designated in the motion.

Unlike the motion to indefinitely postpone, the motion to postpone to a day certain does not lay open to debate the merits of the bill, resolution, or other measure being referred to.[55] Debate is allowed on the motion itself, but both houses require that the debate be confined strictly to the proposition of postponement and to showing why one day is preferred over another.[56] Accordingly, the motion may be amended by substituting one day or time for another.[57]

The rules of the House require an affirmative vote by a majority of those voting (provided the total vote constitutes a quorum) in order to carry the motion to postpone to a day certain.[58] As the Senate rules do not specify its vote requirement for the passage of this particular motion, the "general requirement" voting rule of the Senate appears to be applicable. This rule provides that:

> In the event no specific vote is provided in these Rules for the passage of any Senate amendment, motion or procedural matters and on all other matters not otherwise provided for in these Rules, the vote for passage or adoption thereof shall be a majority of those voting provided the total vote constitutes a quorum.[59]

Should a legislator making this motion to postpone to a day certain, name a time beyond the session, the presiding officer is required

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53. Senate Rule 91; House Rule 99.
54. Senate Rule 90; House Rule 98.
55. Senate Rule 93; House Rule 101.
56. Senate Rule 93; House Rule 101.
57. Senate Rule 92; House Rule 102.
58. House Rule 105.
59. Senate Rule 172. The House of Representatives has a similar rule to apply in appropriate cases, House Rule 187.

to treat the motion as one to indefinitely postpone,[60] and the rules on this type of motion would then apply.

As is the case with the motion to indefinitely postpone, that to postpone to a day certain cannot be applied to subordinate or incidental questions, but only to the whole bill, resolution, or other measure before the body.[61] House rules further declare that when this motion prevails, it carries forward also all the appendages (amendments) to the measure.[62]

If the motion to postpone a measure to a future day fails to carry when put to a vote, it cannot be renewed or made a second time on the same day; or, in the House of Representatives, at the same stage of the proceedings.[63]

The motion to postpone the consideration of a particular measure to a future day or time appears to be utilized considerably in both houses of the General Assembly. It is used in some cases, of course, by persons who are unfriendly to the passage of a measure in the hope or expectation that, at the time the measure comes back before the body for consideration, they will have secured sufficient support to defeat it. But this motion is also utilized to extend legislative courtesy among members. Should a measure come up for consideration before the body at a time when its introducer or a member known to be particularly interested in it is out of the chamber, some member will probably move that consideration of this measure be postponed until a time when the absent legislator will be present. It might be noted that this courtesy is embodied in the rules of procedure of some state legislatures. For example, rules provide that the consideration of a measure is to be deferred until the return of an absent introducer, or that the introducer is to be notified when his measure is considered by committee.

THE MOTION TO COMMIT (OR TO RECOMMIT)

The motion to commit is the means used by members of the Senate or the House to refer a bill, resolution, or other measure to a standing or special committee, or to a Committee of the Whole House or Committee of the Whole Senate.[64]

As noted earlier, nearly all measures which are introduced are

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60. Senate Rule 92; House Rule 103.
61. Senate Rule 92; House Rule 100.
62. House Rule 100.
63. Senate Rule 93; House Rule 104.
64. Senate Rule 94; House Rule 106.

referred to a committee by the presiding officer as a matter of course. A member may, however, wish to name the committee to which a measure will be referred, or he may disagree with the presiding officer's choice of the committee to consider the measure. In these cases, a member may move to commit to a certain committee, which will be done if the motion is carried.

The rules for both houses provide that a bill which has been referred to a committee (standing or special) may, on motion, be recommitted to the same or to another committee on the vote of a majority of those voting (provided the total vote constitutes a quorum).[65]

When motions to commit to a standing and to a special committee are both made, the standing committee motion has precedence and is voted on first.[66] In both houses, a motion to commit to a Committee of the Whole has precedence over motions to commit to a standing or to a special committee.[67] When either body is meeting as a Committee of the Whole, it is not in order to commit a matter to any other committee.[68]

No debate is allowed on a simple motion to commit a measure to a particular committee. Both houses, however, allow instructions to be added to this motion for the guidance of the committee in its consideration of the measure. If instructions are added, then the merits of the whole question under consideration can be debated.[69]

The rules of the two houses specify two ways in which the motion to commit may be amended. First, instructions may be added to a simple motion to commit; second, another committee may be substituted for the one originally named by the legislator making the motion.[70]

Perhaps it would be well to illustrate how a measure might be recommitted. Assume that a bill which was referred to a standing committee on its first reading has been favorably reported back to the body, and is now up for the third reading. Assume further, that in their debate and discussion of this bill, the body offers a large number of amendments to it. In this case, it might seem desirable to send the bill, with its amendments, back to the same or to another committee for reconsideration. A motion to commit, carried by a majority of those voting (provided the total vote

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65. Senate Rule 98; House Rule 110.
66. Senate Rule 95; House Rule 107.
67. Senate Rule 95; House Rule 107.
68. Senate Rule 130; House Rule 146.
69. Senate Rule 96; House Rule 108.
70. Senate Rule 97; House Rule 109.

constitutes a quorum), could be used to do this.[71] The motion could, of course, include definite instructions to guide the committee in its consideration of the bill.

Because the motion to recommit, in effect, postpones the vote on a measure, it is sometimes used to prevent a measure's passage. For example, a member unfriendly to a particular bill may offer this motion to send the bill back to a committee, realizing that it will not be possible for the bill to get through the committee, back before the body, and passed before the end of the legislative session.

THE MOTION TO AMEND

One of the most important of all motions, and one employed frequently during the daily course of procedure in both houses of the General Assembly, is the motion to amend.

The rules of both the Senate and House of Representatives specify three ways in which a measure may be amended. First, words may be inserted in or added to the measure; second, words may be stricken from the measure; and, third, words may be both stricken from and inserted in the measure.[72] An amendment itself may also be amended in these three ways, but the rules forbid amending an amendment to an amendment.[73]

Germaneness of Amendments: Legislators are expected to act in good faith when making a motion to amend. As evidence of this principle, the President of the Senate and the Speaker of the House are given the power to rule out of order: (1) any irrelevant amendment, or (2) any amendment which is obviously offered for the purpose of delay ("not germane to the subject under consideration" in the House).[74] Both houses also prohibit motions concerning a subject different from that under consideration from being admitted under color of amendment.[75]

Floor Substitutes: In some cases, a member may wish to offer an entire bill in the place of the one originally introduced and reported by

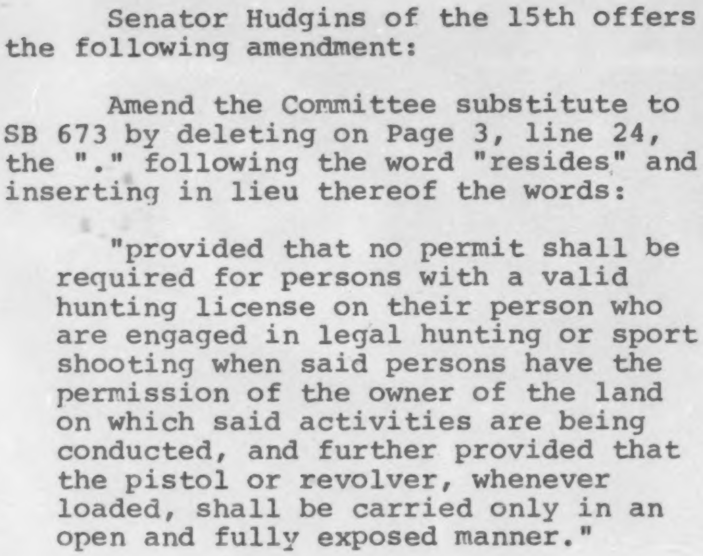
71. Senate Rule 98; House Rule 110.

72. Senate Rule 143; House Rule 159.

73. Senate Rule 143; House Rule 159.

74. Senate Rule 146; House Rule 162.

75. Senate Rule 150; House Rule 163. The legislator should also be cautioned that inclusion of non-germane amendments can be grounds for court adjudgment of unconstitutionality because of multiple subject matter with a single act (see p. 99 of this *Handbook*).



Senator Hudgins of the 15th offers the following amendment:

Amend the Committee substitute to SB 673 by deleting on Page 3, line 24, the "." following the word "resides" and inserting in lieu thereof the words:

> "provided that no permit shall be required for persons with a valid hunting license on their person who are engaged in legal hunting or sport shooting when said persons have the permission of the owner of the land on which said activities are being conducted, and further provided that the pistol or revolver, whenever loaded, shall be carried only in an open and fully exposed manner."

Figure 19. FORM OF FLOOR AMENDMENT

committee. The new bill is known as a *floor substitute*, and does not have to be introduced, read, or referred to committee, but may be offered from the floor.[76] The rules of both houses expressly classify a substitute as an amendment, except that for purposes of amending a substitute, the substitute is not considered an amendment (so amendments to a substitute can be further amended).[77]

An illustration is perhaps the best method of explaining the priority of voting on amendments and substitutes. Suppose that one member of the legislature has proposed an amendment to a bill, and that another member has proposed a substitute for that same bill. Suppose that an amendment is then proposed to the substitute. The rules of both houses provide that, in this complex situation, the body first votes on the amendment to the original bill; second, on the amendment to the substitute; and, finally, on the substitute, as amended, if the amendment was adopted. If the substitute fails to carry, there then may be a vote on the original bill.[78]

Consideration of Floor Amendments: All motions to amend any matter before either house must be in writing and must plainly and distinctly set forth the amendment desired and the part of the bill or resolution where the amendment is to be inserted or added.[79] The House in recent years has adopted a facility for handling amendments, which is not used in the smaller Senate. Large screens are suspended in the House corners for projecting amendments proposed during the legislative floor debate on a measure. Before the screens were used, House legislative action was delayed considerably by the necessary printing and distributing of all floor amendments prior to House action. Now the time required to consider the many amendments frequently proposed during floor debate has been significantly reduced. Handwritten amendments can be projected onto the screens, enabling all House members to read the proposed amendment and permitting the House to proceed immediately with floor debate and voting.

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[76] A number of legislative authorities have expressed criticism of the floor substitute device because it provides a procedure for bypassing the committee system, and because it bypasses the various safeguards that insure that legislators–and the public –know the language and effect of measures before the legislature. In some cases, "skeleton" bills with innocuous provisions have been introduced and referred to committee, and only after a bill is before the body for final voting are the substantive provisions added by substitute. Interestingly, with a substitute, the original bill number and author are retained, but the act may be changed so that there is little resemblance to the original bill. Sometimes, when this has happened, the author of the bill has taken the floor to ask for the defeat of "his" bill (now changed through substitute).

[77] Senate Rule 144; House Rule 160.

[78] Senate Rule 148; House Rule 165.

[79] Senate Rule 145; House Rule 161.

House and Senate rules provide that a member cannot offer an amendment to a measure after his house has agreed to the committee report on that measure, unless the body's agreement is reconsidered.[80] Where a measure under consideration contains blanks, these blanks must be filled in before a motion can be made to amend the measure.[81] The reason for this rule, of course, is that once the blanks are filled in, the need for the amendment may not exist. Should several amendments be offered to the same measure, they are voted on from last to first, *i.e.*, the last ones offered are voted on first. Actually, the rule as to priority of voting is quite broad, providing that on all questions, whether in the house or in committee, "the last amendment, the most distant day, and the largest sum" shall be put first.[82]

A bill or resolution which is being amended is considered in two parts: first, the body of the bill, and second, its title. Senate rules provide that the title cannot be considered or amended until the body of a bill or resolution has been perfected.[83]

When a bill or resolution is in its final reading, the body may agree to consider it by sections or paragraphs (see "Division of a Question," p. 177). If this is done, the Secretary or Clerk, in reading the bills, is required to pause at the end of each section or resolution, and the amendments to that section or resolution must be offered at that time. Once a section or resolution has been considered by the body, it is not in order to go back and amend it. Further, the amendments to the bill or resolution which were offered by the committee to which it was referred are read by the Secretary or Clerk as a matter of course and without any motion being made.[84]

Whenever a motion is made to amend a measure by striking out and adding certain provisions, the Secretary or Clerk must: (1) read the paragraph as it is; (2) then read the words to be stricken out; and (3) read the whole paragraph as it would be if amended.[85] In the event that a motion is made to amend a measure by striking out a portion of it, and another motion is made to amend that portion of the bill proposed to be stricken for the purpose of perfecting it, the perfection amendment is voted on first.[86]

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[80] Senate Rule 154; House Rule 169.

[81] Senate Rule 147; House Rule 164.

[82] Senate Rule 151; House Rule 167.

[83] Senate Rule 152.

[84] Senate Rule 156; House Rule 171.

[85] Senate Rule 155; House Rule 170.

Amendments Made by Other House: An important aspect of the amendment process concerns measures which are returned by the other house with amendments. A house may, of course, amend a measure sent to it by the other house. The amended measure is then returned to the house where it originated. The originating house may amend the other house's amendments and return the measure to that body. But the originating house's amendments to the amendments of the other house cannot further be amended. The other house must simply accept or reject the amendments made to its amendments by the originating house.[87] If agreement cannot be obtained, a conference committee may be appointed to attempt to work out a compromise measure acceptable to both houses (see p. 145 for discussion of conference committees).

Assume that a bill originates in the House of Representatives and is passed by that body. It will then go to the Senate. Assume that the Senate passes the bill with amendments. The bill will then be returned to the House of Representatives, which will then consider the amendments to the measure which have been made by the Senate. The House may, of course, accept these amendments, and the amended measure will then be transmitted to the governor. On the other hand, the House may amend the amendments made by the Senate, in which case, the bill is returned to the Senate. The Senate must either accept or reject (but cannot amend) the amendments to its amendments which have been made by the House of Representatives (the house of origin). If it rejects the House's amendments to its amendments, the two houses may appoint a conference committee to try to work out a compromise measure that will be mutually acceptable.

The rules of both the Senate and the House list the following questions as those which arise regarding amendments made by the other house to its bills or resolutions:

(1) A motion to agree to the amendments of the other house.

(2) A motion to disagree to the amendments of the other house.

(3) A motion to recede from its disagreement or amendment.

(4) A motion to insist on its disagreement or amendment.

[86] Senate Rule 149; House Rule 166.

[87] Senate Rule 159; House Rule 174.

A motion to amend an amendment of the other house takes precedence over any of these motions. Otherwise, these motions are considered in the order listed.[88]

The rules of the House of Representatives further provide that, when any question of disagreement with the Senate arises, the motions which are in order are: (1) a motion to insist upon the House position, and (2) a motion to recede from the House position. A member can make either of these motions at any time he can legally obtain the floor. The motions are put to the House by the presiding officer in the order in which they are listed above, "subject to disposition by the House of any amendments or substitutes affecting the matter in disagreement."[89]

The rules of each house authorize its presiding officer, when in his opinion an amendment made by the other body to a bill which originated in his house is not germane, to rule out that amendment.[90] The presider may do this on his own motion or upon a point of order being made by a member. This point of order takes precedence over a motion to agree. If the presiding officer does rule out an amendment by the other house on these grounds and is sustained by the body against any appeal from the floor on his ruling, his action is considered the same as a vote by his house to disagree to the amendment.[91]

The rules of the Senate and the House of Representatives provide that the vote for the adoption of a House amendment to a Senate measure, or a Senate amendment to a House measure, will pass the measure under consideration.[92] This is, likewise, the vote requirement for adoption of a conference committee report.[93]

It might be noted that the introducer or proponents of a measure often announce to the body their acceptance of particular amendments. Such an announcement usually forestalls or ends debate on the amendment.

THE MOTION TO PRINT

As was noted earlier in this chapter, the motion to print is last in the "order of precedence" list of both the House of Representatives and the Senate. Yet, the rules of the houses contain no provisions expressly concerning this motion.

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[88] Senate Rules 157, 158; House Rules 172, 173. The Senate provides as a fifth question the motion to adhere to its disagreement or amendment.

[89] House Rule 172.

[90] Senate Rule 160; House Rule 172.

[91] Senate Rule 160; House Rule 172.

[92] Senate Rule 163; House Rule 175.

[93] Senate Rule 164; House Rule 176.

In regard to the printing of bills and resolutions in general, the houses of the legislature are guided by identical rules. The Secretary and Clerk have the duty to cause all bills and resolutions of general application to be printed and distributed to the members. Further, when the bills and resolutions are reported back by a committee with amendments, the amendments are likewise to be printed and distributed.[94]

The rules of each house further instruct that no bill or resolution of general application can be voted upon by a house unless copies of the measure have been printed and distributed to the members.[95]

Either house may, at any time, by majority vote of those voting, provided the total vote constitutes a quorum, suspend action upon any pending bill or resolution of general application until the substitutes and amendments which have been offered to it have been printed and distributed to the members.[96]

By including the motion to print in their "order of procedure" lists, it would appear that both houses simply recognize and provide for a motion to accomplish the results here noted.

THE MOTION TO RECONSIDER

Another motion made from time to time in the two houses of the Georgia General Assembly is the motion to reconsider. This motion, when successful, has the purpose and effect of creating the possibility that the action taken by the body on a particular measure will be revoked.

In the section treating the daily order of business, it was noted that the proper time for making the motion for reconsideration comes at different stages in the procedures of the two houses. The rules of the Senate set the appropriate time for this motion as immediately following the reading of the journal of the preceding day's happenings. At this time, a motion may be made to reconsider any matter which the journal contains, except those which have been previously reconsidered.[97] In the House of Representatives, however, this motion is not in order until after

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94. Senate Rule 115; House Rule 130.
95. Senate Rule 115; House Rule 130.
96. Senate Rule 115; House Rule 130.
97. Senate Rule 99.

the journal has been read and confirmed, and the period for unanimous consent has expired.[98]

The rules of both houses require that the member making this motion must give the body notice of his intention to do so "before the end of the preceding legislative day during which the action sought to be reconsidered took place."[99] In actual practice, it appears that this notice is usually given to the body immediately following the action desired to be reconsidered. After obtaining recognition, the member normally says: "Mr. Speaker, (or Mr. President), I request reconsideration by the House (or the Senate) of this bill at the proper time." The presiding officer responds, "The gentleman has that privilege." The body then passes on to other business. The notice of a motion to reconsider cannot be withdrawn except on the day such notice is given.[100]

Unlike the practice in some state legislatures, in the Georgia General Assembly any member can make the motion to reconsider his house's action on a measure, whether he voted for or against the measure.[101] In addition, the motion to reconsider can be made with regard to any measure regardless of whether it received a vote of passage or not.

Any matter, however, which could not be taken up again on the following day, may be reconsidered on the same day in which the action in question is taken.[102] For example, House rules provide that action of the House on Senate amendments must be reconsidered immediately, if reconsideration is desired by that body.[103] The reconsideration by the House of action taken on House amendments, however, as well as reconsideration by the Senate of action taken on all amendments, may be done at any time before final action is taken upon the section, bill, or resolution to which the amendment relates.[104]

When a member has successfully made the motion to reconsider a particular bill, that bill is placed at the foot of the calendar of bills that are then in order for a third reading.[105]

98. House Rule 111.
99. Senate Rule 99; House Rule 111.
100. Senate Rule 99; House Rule 111.
101. Senate Rule 99; House Rule 111.
102. Senate Rule 99; House Rule 111.
103. House Rule 111.
104; Senate Rule 100; House Rule 111.
105. Senate Rule 102; House Rule 113.

In each house, the rules provide that no matter shall be reconsidered more than once.[106]

The motion to reconsider is an important one in the Georgia legislative process. Thus, a bill which has failed to pass on its third reading in one of the houses may, on motion, be reconsidered and passed.

DIVISION OF A QUESTION

When an involved question, and one which contains parts which may be readily separated, is before either house for consideration, legislators sometimes desire to discuss and consider the question by part rather than as a whole. To make this possible, the rules of both houses provide that any member may call for a division of the question on a subject which, in the opinion of the presiding officer, is one which may be divided.[107]

The member calling for this division must state into how many and exactly what parts he wishes the question divided. Each part of the divided proposition must be so distinct that, if it were taken away, the remainder of the question could stand by itself and be consistent and entire.[108] The rules of the House of Representatives include some examples which illustrate failures to meet this requirement. They indicate that a qualifying paragraph, an exception, and a proviso are not distinct or entire parts which could be divided from the remainder of a measure.[109] House rules also state that when amending a measure on the floor, no member may call for a division of the question on a motion "to strike out and insert."[110]

The rules of both houses appear to cast the burden of determining whether the requirements for the division of a particular question are met upon the presiding officer of the body at the time the call or motion is made. Without further rules to guide him in dealing with this matter, the presiding officer is probably allowed a wide discretion in his determination.

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106. Senate Rule 101; House Rule 112.
107. Senate Rule 163; House Rule 178.
108. Senate Rule 164; House Rule 179.
109. House Rule 179.
110. *Ibid.*

COMMITTEE OF THE WHOLE

The entire House of Representatives or Senate can make up what is known as the Committee of the Whole House or the Committee of the Whole Senate. These committees are devices used by the two bodies to relax some of the more formal rules so as to effect more informal discussion and prompter action on important bills.

In actuality, the Committee of the Whole is the entire membership of either the House or Senate sitting under a different name. The rules of both houses contain separate provisions which apply to the actions of each body when meeting as a Committee of the Whole.

When Used: The House rules provide that all proceedings touching the appropriating of money shall be considered in the Committee of the Whole House,[111] but the rules of the Senate do not explicitly state conditions under which the Senate must meet as a Committee of the Whole Senate.

The Speaker may resolve the House into a Committee of the Whole, without any motion being made, whenever a bill or resolution required by House rules to be considered in the Committee of the Whole is in order for consideration on its third reading.[112] The rules of the Senate do not grant this same power to the President of the Senate, since they do not state when a bill or resolution is to be considered in the Committee of the Whole.

The House or Senate may resolve itself into a Committee of the Whole if a motion is made to that effect and passed by a vote of a majority of those voting, provided the total vote constitutes a quorum, and that one day's notice of the intention to make the motion has been given. If the member making the motion has not given one day's notice of his intention to do so, an affirmative vote of two-thirds of those voting is required to pass the motion. This two-thirds must equal a majority of the total membership of the House or Senate.[113] For the purpose of considering the General Appropriations Bill, however, no previous notice is necessary; the House or the Senate may resolve itself into a Committee of the Whole by the affirmative vote of a majority of those voting, provided the total vote constitutes a quorum, on a motion to that effect.[114]

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[111] House Rule 240.

[112] House Rule 142.

[113] House Rule 142; Senate Rule 126.

[114] House Rule 142; Senate Rule 126.

Both houses provide that individual speeches on the motion for the Committee of the Whole are to be limited to three minutes.[115]

In the event that the House or Senate should refer a measure to the Committee of the Whole and then a motion to resolve the body into the committee should fail, the motion could not be renewed. If the motion fails, the Speaker or the President is required, on the following day, to have the measure reintroduced and to refer it to the appropriate committee, unless otherwise ordered by the House or Senate.[116]

Procedures When in Operation: When a Committee of the Whole is formed, the Speaker or President leaves his chair and appoints a chairman to preside.[117] In the House, the Speaker is then free to take part in the proceedings; and he, as well as all other members, must vote on all questions which come before the committee, unless excused from doing so.[118] The President of the Senate (Lieutenant Governor) does not take part in the proceedings of the Committee of the Whole Senate, nor vote on matters arising in such session.

The Committee of the Whole is prohibited from punishing disorderly conduct of its members, but must report the behavior for action by the House or the Senate in regular session.[119] The chairman of the committee, however, does have the power to clear the galleries or lobbies in case of disorderly conduct there.[120] It can be inferred from this rule that meetings of the Committee of the Whole in the two houses are generally open to the public.

As to procedure in the Committee of the Whole, the rules of the House of Representatives or of the Senate are followed with these specified exceptions:

(1) the Committee of the Whole cannot refer a matter to any other committee;

(2) it cannot adjourn;

(3) the previous question cannot be enforced;

(4) a motion to lay on the table or indefinitely postpone is not in order;

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115. House Rule 142; Senate Rule 126.
116. House Rule 142; Senate Rule 126.
117. House Rule 143; Senate Rule 127.
118. House Rule 148; Senate Rule 132.
119. House Rule 151; Senate Rule 135.
120. House Rule 150; Senate Rule 134.

(5) a member may speak as often as he may obtain the floor;

(6) no call of the House or of the Senate is in order;

(7) no vote can be taken by yeas and nays.[121]

In the procedure of the Committee of the Whole, the Clerk or the Secretary must first read the bill under consideration in its entirety, after which it is again read or debated by clauses or sections, with the preamble the last portion to be considered. Apparently this procedure may be otherwise ordered.[122]

When, during a meeting of the committee, a vote on a question discloses that a quorum of the House or the Senate is not present, the committee cannot proceed with its business.[123] Further, upon the mere suggestion that no quorum is present, the chairman must make an actual count. If he finds that a quorum is lacking, he must order that the committee immediately rise and report absence of a quorum to the House or the Senate in regular session.[124]

If, at some stage in the committee's proceedings, it is desired to close the debate on a question, or to limit the members' speaking time, the committee may rise and report this desire to the House or the Senate in regular session (the chairman making the report to the Speaker or the President). The House or Senate then acts on a resolution to close or limit the debate, following which it resolves itself again into a Committee of the Whole. If the resolution is passed, it limits the debate only on the subject matter then before the committee.[125]

The rules expressly provide that the motion to reconsider may be used by members in the Committee of the Whole just as in the House or the Senate itself.[126]

When the body is meeting as a Committee of the Whole, a member may call for any papers which are in possession of his house and have them read for the information of the committee, unless, for some reason, the committee orders otherwise.[127]

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121. House Rule 146; Senate Rule 130.
122. House Rule 145; Senate Rule 129.
123. House Rule 144; Senate Rule 128.
124. House Rule 144; Senate Rule 128.
125. House Rule 152; Senate Rule 136.
126. House Rule 147; Senate Rule 131.
127. House Rule 149; Senate Rule 133.

A motion to adjourn cannot be made in the Committee of the Whole. In the event that the Committee of the Whole does not have enough time at one sitting to finish its business, a motion may be made "that the Committee rise and report progress (to the House or Senate in formal session) and ask leave to sit again." As is true of the motion to adjourn in a formal session of the House or the Senate, this motion may be made at any time the member so moving can legitimately obtain the floor, and it takes precedence over all other motions. It is decided without debate.[128]

If the regular hour of adjournment of the House or the Senate should arrive while its members are sitting as a Committee of the Whole, the committee then, without motion, automatically rises and the Speaker or the President assumes the chair.[129]

The proceedings of the Committee of the Whole are not recorded in the *House Journal* or the *Senate Journal* except as reported to the House or the Senate by the chairman.[130] The report contains only the result of the committee's action on the measure under consideration.[131] This limited recording of transactions in the Committee of the Whole is designed to promote greater freedom of discussion than occurs when the House or the Senate is officially in session.

After Business Completed: When the committee completes the business before it, it rises and the chairman is instructed to report the committee's action to the House or to the Senate in formal session, with the Speaker or the President in the chair. The chairman states to the Speaker or President that the committee has had a certain measure under consideration and reports it back with the recommendation: (1) that it does pass; or (2) that it does pass as amended; or (3) that it does not pass.[132] The report of the Committee of the Whole has precedence over all other committee reports in both the House of Representatives and the Senate.[133] The Speaker or the President repeats this report, and the matter is then before the House or the Senate for action "just as though reported by any other committee."[134]

Emphasis should be placed upon the point that a measure cannot be passed in the Committee of the Whole. Like any other committee, it can only report recommendations to the House or the Senate. Obviously, the action taken on a measure by all members sitting as a Committee of the Whole is likely to be the action taken by these same members sitting in formal session. But only in formal session can a measure be passed by the House of Representatives or by the Senate.

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[128] House Rule 153, 154; Senate Rule 137, 138.

[129] House Rule 154; Senate Rule 138.

[130] House Rule 158; Senate Rule 142.

[131] House Rule 156; Senate Rule 140.

[132] House Rule 155; Senate Rule 139.

[133] House Rule 139; Senate Rule 125.

[134] House Rule 155; Senate Rule 139.

As is true in the case of a measure reported by other committees, amendments to a measure which are offered by the Committee of the Whole may be further amended or rejected by the House or Senate. Likewise, the House or the Senate may restore to a measure matters which were stricken by the committee.[135]

JOINT SESSIONS

Joint sessions are utilized for (1) the governor's annual "State of the State" address and his annual budget message; (2) guest speakers who have been invited to address the General Assembly; and (3) electing any state officers which by law the legislature is required to elect.[136] Additionally, the two houses may meet in joint session from time to time for other purposes as deemed necessary.

Procedures for Session: To meet in joint session, both houses pass a concurrent resolution designating the day and hour of the session, at which time members of the Senate leave their chamber and go to the House.[137] There, the House doorkeeper announces their arrival to the Speaker, who orders that they be allowed to enter. The President of the Senate then proceeds to the Speaker's rostrum, where he takes over the task of presiding officer and announces that the General Assembly is in joint session.[138] The Speaker of the House sits on the left of the President while the houses are meeting.[139] If the President of the Senate is absent, the presiding officer of the joint session would be the Speaker of the House, or, in his absence, the President Pro Tempore or, in his absence, the Speaker Pro Tempore.[140]

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[135] House Rule 157; Senate Rule 141.

[136] Joint Session Rule 1.

[137] Joint Session Rule 3.

[138] Joint Session Rule 4.

[139] Joint Session Rule 5.

[140] Joint Session Rule 4.

A majority of the total membership of each house is necessary to constitute a quorum for the joint session.[141] Apparently this rule is not strictly followed when no vitally important business is to be transacted.

The first thing which the President does is to cause the joint resolution convening the two houses to be read.[142]

In the elections which are carried out in joint session, it is not necessary to second a nomination. The President takes the vote by roll call, and a majority of the whole number of votes cast is necessary for a choice.[143] A member cannot change his vote unless he rises and states that he voted by mistake or that his vote was recorded by mistake.[144] During the course of the business in connection with elections, no debate is allowed except on questions of order.[145]

A motion to adjourn a joint session is not in order. Instead, two other motions may be made to end a meeting in joint session: first, "That the joint session of the General Assembly be now dissolved," and, second, "That the joint session of the General Assembly be now dissolved to be reconvened at (a time named)." Of the two, the latter motion has precedence.[146] Either of these terminating motions is always in order, unless a roll call has begun, when it is not in order until the President has declared the result of the vote.[147]

When either of these terminating motions has been carried, the President declares the joint session dissolved, and the Senate members retire from the House.[148] If the motion fails to carry, it cannot be made again until other business has intervened.[149]

The rules governing the procedure of the General Assembly meeting in joint session may be amended by concurrent resolution of the two houses, and when either house notifies the other of the withdrawal of its consent to any rule, that rule ceases to be in force.[150]

141. Joint Session Rule 6.
142. Joint Session Rule 4.
143. Joint Session Rule 10, 12.
144. Joint Session Rule 13.
145. Joint Session Rule 11.
146. Joint Session Rule 14.
147. Joint Session Rule 15.
148. Joint Session Rule 14.
149. Joint Session Rule 15.
150. Joint Session Rule 17.

Chapter VIII

Legislative Staff and Resources

This section describes briefly the major kinds of resources and staff services available to the Georgia General Assembly, in addition to those noted in Chapter II.

LEGISLATIVE BRANCH RESOURCES

LEGISLATIVE SERVICES COMMITTEE

The Legislative Services Committee is a special joint statutory committee that oversees the administration and management of the General Assembly. Since it is not a standing committee of the legislature, no bills are referred to it.

The committee may study and adopt methods and procedures for more efficient and uniform operation of both houses of the General Assembly, as well as provide for necessary services to the legislative branch. Additionally, it has complete authority over the assignment of rooms, chambers, offices, and other areas on the third and fourth floors of the State Capitol, and on the mezzanine between these floors.[1]

The Legislative Services Committee is composed of ten ex officio members: the Speaker of the House (chairman); President of the Senate;

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[1] Ga. Code Ann. sec. 47-1202.

chairmen of the House and Senate Appropriations Committees; chairmen of the House and Senate Judiciary Committees; chairman of the Senate Banking, Finance and Insurance Committee; chairman of the House Ways and Means Committee; Clerk of the House; and Secretary of the Senate. Members receive no compensation for service on the committee during legislative sessions; but, for interim meetings, they are entitled to the standard allowances authorized for other interim legislative committees.[2]

OFFICE OF LEGISLATIVE COUNSEL

Under direction of the Legislative Services Committee, the Office of Legislative Counsel provides a variety of reference, counseling, and legislative drafting services to members of the General Assembly.

Upon request, this office will advise legislators on proposed legislation, prepare a draft bill, or review legislation prepared by the legislator. Both during and between sessions, the Counsel's professional staff (which includes both attorneys and non-legal specialists) advises committees and officers of the General Assembly, assisting in the preparation of their reports and recommendations. Additionally, the staff researches a variety of legislative matters, upcoming policy issues, and related subjects for members, officers, and committees of the legislature.

The Legislative Counsel can provide for statutory and code revisions. Additionally, the office renders opinions and provides other legal services for the legislative branch, and with approval of the Legislative Services Committee or its chairman (the Speaker of the House), represents the legislative branch and its interests in court litigation, with power to engage the services of others, including private counsel, to assist in these duties.[3]

Georgia law directs the attorney general to act as advisor to this office, and on occasion attorneys from both offices will work together.[4] While the attorney general can only issue official opinions on matters of law to the governor and heads of departments in the executive branch, his office will issue unofficial opinions to legislators on request.

Finally, the Counsel's office serves as a major contact point with the Council of State Governments, National Conference of State Legislatures, and other states for the exchange of information, data, and other materials relating to Georgia law and the General Assembly.

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[2] *Ibid.*, sec. 47-1201.

[3] *Ibid.*, sec. 47-1203.

[4] *Ibid.*, sec. 47-1208.

The Legislative Counsel is appointed by the Legislative Services Committee and approved by both houses of the General Assembly, serving until another is elected by the committee. He or she must be an attorney experienced in legislative matters and bill drafting.

LEGISLATIVE FISCAL OFFICER

The office of Legislative Fiscal Officer was established in 1969 in an attempt to oversee and centralize legislative expenditures and accounting.

Acting as bookkeeper and comptroller for the General Assembly, the Fiscal Officer maintains accounts of legislative expenditures and commitments. His office oversees the payment of legislative salaries, allowances, and travel expenses, and approves all purchases of supplies and other materials for the General Assembly. The Fiscal Officer must prepare and sign all vouchers and warrants for expenditures of funds and make all payments from funds appropriated to the legislature. Additionally, he maintains an inventory of the equipment, furnishings, and nonexpendable items belonging to the legislative branch. The Fiscal Officer (and his staff) are employed by the Legislative Services Committee, and may be entrusted with other duties by that committee.[5]

LEGISLATIVE BUDGET ANALYST

The office was created to give the legislature fiscal expertise of its own so that it would not have to rely exclusively on the executive branch for revenue estimates, spending projections, and departmental budgetary needs.

The Budget Analyst assists the General Assembly and its committees–particularly the House and Senate Appropriations Committees–with appropriations and budgetary matters. During the initial stages of budget preparation, his office works with the Office of Planning and Budget and with legislative leaders, analyzing agency budget requests both before and after review by the Governor's Office. All state agencies are required to furnish any information and material that the analyst needs. He is also present during all legislative deliberations over the budget.[6]

In addition, he supplies members of the General Assembly with independent analyses of tax measures under consideration. Following each session, his office attempts to see that departments and agencies spend the money as budgeted.

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[5] *Ibid.*, sec. 47-1205.

[6] *Ibid.*

Except for the University System, any state agency must notify his office of intention to apply for any new program of federal assistance, and he is required to prepare an analysis of the program's short and long-range impact on state budgetary and fiscal matters.[7]

FISCAL AFFAIRS SUBCOMMITTEE

Although fiscal affairs subcommittees are provided for each house, their primary functions are performed through joint meetings as the Fiscal Affairs Subcommittee. At least once each quarter, the Fiscal Affairs Subcommittee meets at the governor's call to review and approve budget object transfers recommended by him. Such transfers require the approval of at least eleven of the twenty members on the Subcommittee. The two subcommittees may also meet as one at the call of the Senate President, Speaker of the House, or of their own subcommittee chairmen.[8]

In each house the fiscal affairs subcommittee consists of four members of the Appropriations Committee appointed by the presiding officer, the presiding officer himself, and five members of that house selected by the governor. These subcommittees are authorized to review budget requests of the various departments and agencies at any time, with the Office of Planning and Budget, State Auditor, and each department or agency directed to promptly furnish them with any requested information. The subcommittees must report annually to the legislature on matters coming to their attention, and make recommendations for improving the efficiency of the operation and management of various state agencies.[9]

GEORGIA EDUCATIONAL IMPROVEMENT COUNCIL

The council is a full-time staff agency of the legislative branch, responsible for studying the educational needs of Georgia. It undertakes research and otherwise assists members and committees of the General Assembly in educational matters. The council employs an executive director and other staff as necessary, and is furnished with office space, supplies, equipment, and other needs from funds appropriated to the legislative branch.[10]

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7. *Ibid.*, sec. 40-428.

8. *Ibid.*, sec. 47-511–47-517.

9. *Ibid.*

10. Ga. Laws 1964, p. 711; 1966, pp. 434 and 724; and 1972, p. 1248.

Ten legislators comprise the council. Serving ex officio are the President of the Senate, Speaker of the House, chairmen of the Senate and House Education Committees, chairman of the House University System Committee, and chairman of the Senate Higher Education Committee. Additionally, two Representatives are appointed by the Speaker, and two Senators by the Senate President. Appointive members serve two-year terms, coinciding with their terms in the General Assembly, and are eligible for reappointment.[11]

SENATE RESEARCH OFFICE

A small research office has been established for use by members of the Senate, with a full-time director and several part-time staff members or interns. This office is available for research on a year-round basis.

LEGISLATIVE INTERNS

Under the Legislative Intern Program, graduate and upper-division students, selected on a competitive basis from colleges and universities in Georgia, live in Atlanta and work in a staff capacity to the General Assembly during the session. For their work as interns, the students receive academic credit and are paid a stipend. Currently, thirty interns take part in the program each session; fifteen are assigned to the Senate and fifteen to the House. Interns are assigned to committee chairmen and to such support services as the Office of the Legislative Counsel, and the educational television coverage of General Assembly sessions.

Selection and academic requirements and credit for the interns are handled by participating schools. Work assignment and direction of interns during the session are managed by the House and Senate. The intern program has proven a successful part of the General Assembly's long-term effort to increase legislative staffing and could become an even more valuable service as legislators take more advantage of the availability of thirty full-time aides during the session.

OTHER SOURCES OF ASSISTANCE

OFFICE OF PLANNING AND BUDGET

The General Assembly receives assistance on budgetary and fiscal matters from a number of other sources within state government. A major source of expertise and assistance is located within the Office of the Governor–the Office of Planning and Budget. This office, and in particular its budget division, is responsible for developing and preparing policies and long and short-range plans as a basis for budget recommendations to the General Assembly; carrying out the fiscal affairs of the state as approved by the General Assembly; and, in general, providing the legislature and its committees with appropriations assistance.[12]

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[11] *Ibid.*

The Office of Planning and Budget must prepare, and annually update, a biennial development program, which projects expenditures and indicates measures to be taken by state agencies within a six-year period to implement the state's development policies. These projections provide members of the General Assembly an annual overview of the state's ability to finance currently proposed programs in ensuing years, assuming no major change in policy or program content occurs.[13]

STATE AUDITOR

At least once a year, the state auditor reviews the books and accounts of every state officer, department, agency, authority, board, commission and institution, and every local school system and official which receive state aid, to insure that funds are expended and administrated according to law. Such audits and examinations, together with the auditor's opinions and recommendations, are reported annually to the General Assembly (and to the governor), along with a detailed and comprehensive report of the salaries paid to, and expenses incurred by, every person on the payroll of the state.[14]

The auditor is directed to prepare annual and, whenever required, special reports to the governor and General Assembly, showing the general financial operation and management of each state agency, and whether it is being handled in an efficient and economical manner, and calling special attention to any excessive cost of operation or maintenance, any excessive expense, and any excessive price paid for goods, supplies, or labor by any agency.[15] Either House or Senate Appropriations Committee (or the governor) may direct and require the auditor to make a special examination and audit of all the books, records, accounts, vouchers, warrants, bills, and other papers and records, and the financial transaction and management of any agency at any time.[16] Additionally, the auditor is directed to cooperate with either appropriations committee and to furnish any information they request.[17]

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[12] Ga. Code Ann. sec. 40-3539–40-3545 and chap. 40-4.

[13] *Ibid.*, sec. 40-2912 and 40-3540.

[14] *Ibid.*, sec. 40-1805.

[15] *Ibid.*

[16] *Ibid.*, sec. 40-1806.

COMMISSION ON COMPENSATION

The State Commission on Compensation assists the General Assembly in setting the compensation of not only members of the General Assembly, but also "constitutional officers" and full-time heads of state agencies, authorities, boards, commissions, committees, and departments. Of the commission's twelve members, four are appointed by the Governor, four by the Justices of the State Supreme Court, two by the Lieutenant Governor, and two by the Speaker of the House.[18] The compensation commission is responsible for reviewing salaries currently being paid state officials in Georgia and comparing these with salaries received in comparable positions within the federal government, other states, and in business, industry, and the professions. The commission is further instructed to file a written report of its findings and recommendations to the General Assembly in odd-numbered years, at least thirty days prior to the beginning of the session.

UNIVERSITIES

The Georgia General Assembly sometimes turns to educational and research institutions of the state for counsel and research assistance. The law schools, both public and private, are called upon from time to time for research and drafting assistance. Law professors, political scientists, and public administration teachers and researchers and other specialists are also called upon by the General Assembly and some of its committees for counsel and research assistance. This kind of assistance has been rendered for the most part by the larger colleges of the state: The University of Georgia, Georgia Institute of Technology, Georgia State University, Emory University, and Mercer University.

The *Legislative Intern Program* (previously discussed) is another example of the assistance provided the General Assembly by educational institutions. The program provides a service to legislators and an educational and work experience for the student interns.

The work of the *Institute of Government* of the University of Georgia deserves special mention here. This institute has conducted a number of studies for committees of the General Assembly, as well as for the body as a whole. Since 1958, it has cooperated with legislative leaders in conducting the pre-session "Institute for Legislators" as well as other special seminars and conferences. These conferences are designed to provide information on issues and problems facing the General Assembly. The pre-session institutes are designed also to acquaint new members with the organization and procedures of the General Assembly.

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[17] *Ibid.*, sec. 40-1809.

[18] *Ibid.*, sec. 89-716.

NATIONAL ORGANIZATIONS

Council of State Governments: Another valuable source of information is the Council of State Governments, with headquarters in Lexington, Kentucky (branch office in Atlanta). The council's joint reference library, on request, supplies the legislature and its committees with information on matters with which they are concerned. The library often can furnish a wealth of information on a subject being considered by the legislature, having gathered this information from studies and legislation of other states which have dealt previously with the subject. Other agencies of the council, including the Committee on Suggested State Legislation and the Commission on Interstate Cooperation, assist state legislative processes.

A number of Council publications are worth mentioning: *State Government News*, published monthly, highlights information relevant to state legislatures, new laws, issues facing the states, and state government in general. A quarterly publication, *State Government*, provides more in-depth analysis of issues of interest to the states. Biennially, *The Book of the States* is issued, providing a great deal of comparative information on constitutions, legislatures, governors, courts, and other areas of state government. Additionally, the Council publishes many studies on specialized areas, such as budgeting techniques, auditing, and interstate compacts.

National Conference of State Legislatures (NCSL): This is the major organization for state legislators in the nation. In addition to its bi-monthly publication, *State Legislatures*, it provides a number of services to legislatures, particularly undertaking or sponsoring studies of special interest to the states. All state legislators, as well as legislative staffs, are eligible for membership in NCSL, and once each year a national meeting is held at which a broad variety of workshops and panels are conducted.

Legis 50: A third organization of interest to state legislators is Legis 50/The Center for Legislative Improvement, formerly the "Citizens

Conference on State Legislatures." This organization has undertaken various general and specific studies of state legislatures. One publication of special note, *The Sometime Governments: A Critical Study of the 50 American Legislatures*, describes proposed legislative reforms and summarizes a 1971 national ranking of state legislatures.

National Conference of Commissioners on Uniform State Laws: This is another source of aid for the General Assembly. This agency prepares uniform and model legislative acts and proposes their adoption by state legislatures across the nation.

PUBLICATIONS

Annually, each member of the General Assembly receives copies of the session laws enacted that year, the *Journal* of that member's house, the state budget, the report of the state auditor, some agency regulations and annual reports, and several other publications. Some of these are distributed automatically, while others are available upon request.

GEORGIA LAWS, 197_, VOLS. I AND II

These are the annual session laws compiled, published, and distributed for the General Assembly by the Secretary of State. Included in these session laws are all acts and resolutions passed by the General Assembly (currently general acts and resolutions are in one volume and local acts and resolutions in a second), a listing of vetoed measures, names and addresses of members of the General Assembly for the session covered, and other information.

RULES AND REGULATIONS OF THE STATE OF GEORGIA

This compilation officially details all rules and regulations adopted by executive agencies, pursuant to law, which are covered under the Administrative Procedures Act (Title 3A). By law, these are to be made available upon request, free of charge, to any member of the General Assembly.[19]

[19] Ga. Code Ann. sec. 3A-107.

ANNUAL REPORTS OF STATE AGENCIES

Although not every executive agency is required by statute to file an annual report with the General Assembly, those officials and agencies directed by law to do so must mail such reports to each member of the General Assembly at his home address, on or before June 1 of each year, unless otherwise directed.[20]

HOUSE AND SENATE JOURNALS

The *Journal* is the official compendium of daily records reflecting the order of business and action taken on all legislative measures and procedural questions during the session. Listed within the *Journal* are the authors of every measure considered by a house, the date of first and second readings of the measure, the name and date of committee assignment, and the committee recommendation on each bill or resolution reported out of committee. The *Journal* does not record the text of bills and resolutions (except for committee or floor amendments and substitutes to a measure), but does reflect all actions taken on them by the full house.

The votes on all motions and questions coming before a house and on the final passage of bills or resolutions are reported. Where a roll call vote was utilized, the names of all members and how they voted (or if they did not vote) are recorded. If the vote was by division (show of hands), the total numbers for and against the question or bill are noted. If the vote was by voice vote or unanimous consent, the *Journal* only records whether the question or measure passed or failed.

Other information included in the *Journal* are rules changes adopted by a house, results of elections for officers of the house, "housekeeping resolutions" for the biennium, copies of privileged resolutions adopted by a house, final reports of special interim study committees, messages received from the other house, copies of the governor's annual "State of the State" and budget messages, a list of the bills vetoed by the governor and his reasons for vetoing them, and the names of all lobbyists formally registered with the Secretary of State.

Unlike the *Congressional Record* and the journals of some state legislative bodies, individual floor remarks and debate are not recorded or published by either house, nor are "extension of remarks" permitted. However, any member may enter a written protest against an action taken by his or her house concerning any matter. The protest must clearly set

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20. *Ibid.*, sec. 40-1701.

forth his grounds and may not impugn the motive of that house or of any member; additionally, House rules require that the protest not be argumentative.[21] With consent of his house, a member may also include certain other statements in the *Journal*, such as an explanation as to why he was not present to vote on a certain measure.

Rules of both houses provide that any member presenting a petition, memorial, or remonstrance shall, as concisely as practicable, indicate the name and object of the petitioner, memorial writer, or remonstrant for notation in the *Journal*, and the paper may then be referred without reading.[22]

Responsibility for preparation of each day's journal report rests with the Clerk for the House and the Secretary for the Senate. Both houses provide for examination of this daily report before it is read and adopted on the following day by the whole body. The Journals Committee is responsible for this examination in the House, and the Rules Committee's Enrolling and Journals Subcommittee in the Senate.[23]

The adoption of the journal each morning by a house officially marks the end of the previous legislative day. The rules of both houses require the reading of the journal except if waived by either a majority vote or by unanimous consent.[24] In actual practice, this waiver is routinely granted each morning following announcement by a representative of the House Journals Committee or Senate Enrolling and Journals Subcommittee that the previous day's record has been examined and found correct.

Following a session, these daily reports are chronologically compiled and published by the Clerk and Secretary for their respective houses in a comprehensive volume (the *House Journal* requires two volumes), which thereafter serves as the official record of legislative action for that session. Despite the absence of individual floor remarks, debate, statements of intent by a measure's author, and detailed standing committee reports, Georgia courts, in seeking to find the intent of the legislature, may review events occurring during the progress of a statute's enactment, as disclosed by the *Journals*.[25] However, the *Journals* may not be used to impeach the validity of a bill by showing that the measure was not enacted

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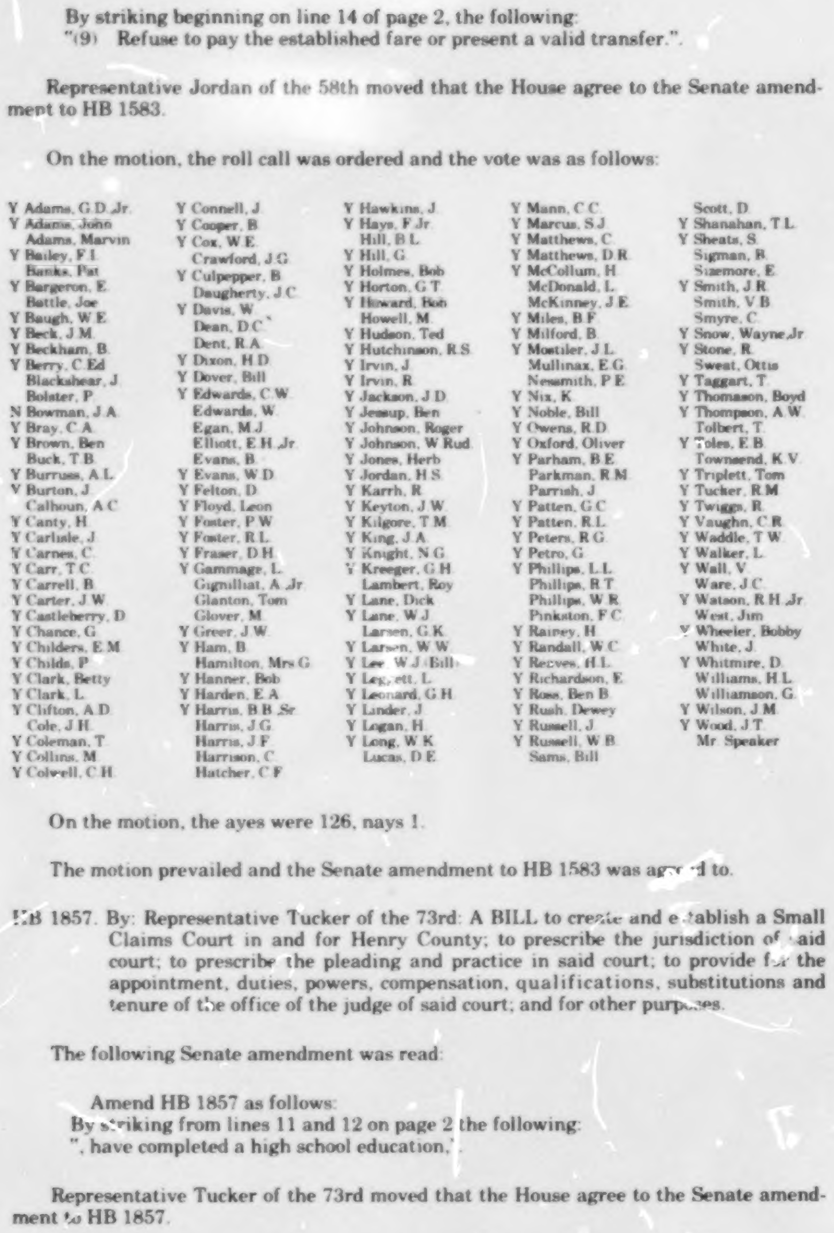
[21] House Rule 74; Senate Rule 66.

[22] House Rule 50; Senate Rule 49.

[23] House Rule 36; Senate Rule 34.

[24] House Rule 42; Senate Rule 41.

[25] *Stanley v. Sims*, 185 Ga. 518, 195 S.E. 439 (1938); *Sharpe v. Lowe*, 214 Ga. 513, 106 S.E. 2d 28 (1958).



By striking beginning on line 14 of page 2, the following:
"(9) Refuse to pay the established fare or present a valid transfer.".

Representative Jordan of the 58th moved that the House agree to the Senate amendment to HB 1583.

On the motion, the roll call was ordered and the vote was as follows:

Y Adams, G.D.Jr.
Y Adams, John
Adams, Marvin
Y Bailey, F.I.
Banks, Pat
Y Bergeron, E.
Battle, Joe
Y Baugh, W.E.
Y Beck, J.M.
Y Beckham, B.
Y Berry, C.Ed
Blackshear, J.
Bolster, P.
N Bowman, J.A.
Y Bray, C.A.
Y Brown, Ben
Buck, T.B.
Y Burruss, A.L.
Y Burton, J.
Calhoun, A.C.
Y Canty, H.
Y Carlisle, J.
Y Carnes, C.
Y Carr, T.C.
Y Carrell, B.
Y Carter, J.W.
Y Castleberry, D.
Y Chance, G.
Y Childers, E.M.
Y Childs, P.
Y Clark, Betty
Y Clark, L.
Y Clifton, A.D.
Cole, J.H.
Y Coleman, T.
Y Collins, M.
Y Colwell, C.H.
Y Connell, J.
Y Cooper, B.
Y Cox, W.E.
Crawford, J.G.
Y Culpepper, B.
Daugherty, J.C.
Y Davis, W.
Dean, D.C.
Dent, R.A.
Y Dixon, H.D.
Y Dover, Bill
Y Edwards, C.W.
Edwards, W.
Egan, M.J.
Elliott, E.H.Jr.
Evans, B.
Y Evans, W.D.
Y Felton, D.
Y Floyd, Leon
Y Foster, P.W.
Y Foster, R.L.
Y Fraser, D.H.
Y Gammage, L.
Gignilliat, A.Jr.
Glanton, Tom
Glover, M.
Y Greer, J.W.
Y Ham, B.
Hamilton, Mrs.G.
Y Hanner, Bob
Y Harden, E.A.
Y Harris, B.B.Sr.
Harris, J.G.
Harris, J.F.
Harrison, C.
Hatcher, C.F.
Y Hawkins, J.
Y Hays, F.Jr.
Hill, B.L.
Y Hill, G.
Y Holmes, Bob
Y Horton, G.T.
Y Howard, Bob
Howell, M.
Y Hudson, Ted
Y Hutchinson, R.S.
Y Irvin, J.
Y Irvin, R.
Y Jackson, J.D.
Y Jessup, Ben
Y Johnson, Roger
Y Johnson, W.Rud.
Y Jones, Herb
Y Jordan, H.S.
Y Karrh, R.
Y Keyton, J.W.
Y Kilgore, T.M.
Y King, J.A.
Y Knight, N.G.
Y Kreeger, G.H.
Lambert, Roy
Y Lane, Dick
Y Lane, W.J.
Larsen, G.K.
Y Larsen, W.W.
Y Lee, W.J.(Bill)
Y Leggett, L.
Y Leonard, G.H.
Y Linder, J.
Y Logan, H.
Y Long, W.K.
Lucas, D.E.
Y Mann, C.C.
Y Marcus, S.J.
Y Matthews, C.
Y Matthews, D.R.
Y McCollum, H.
McDonald, L.
McKinney, J.E.
Y Miles, B.F.
Y Milford, B.
Y Mostiler, J.L.
Mullinax, E.G.
Nessmith, P.E.
Y Nix, K.
Y Noble, Bill
Y Owens, R.D.
Y Oxford, Oliver
Y Parham, B.E.
Parkman, R.M.
Parrish, J.
Y Patten, G.C.
Y Patten, R.L.
Y Peters, R.G.
Y Petro, G.
Y Phillips, L.L.
Phillips, R.T.
Phillips, W.R.
Pinkston, F.C.
Y Rainey, H.
Y Randall, W.C.
Y Reeves, H.L.
Y Richardson, E.
Y Ross, Ben B.
Y Rush, Dewey
Y Russell, J.
Y Russell, W.B.
Sams, Bill
Scott, D.
Y Shanahan, T.L.
Y Sheats, S.
Sigman, B.
Sizemore, E.
Y Smith, J.R.
Smith, V.B.
Smyre, C.
Y Snow, Wayne,Jr.
Y Stone, R.
Sweat, Ottis
Y Taggart, T.
Y Thomason, Boyd
Y Thompson, A.W.
Tolbert, T.
Y Toles, E.B.
Townsend, K.V.
Y Triplett, Tom
Y Tucker, R.M.
Y Twiggs, R.
Y Vaughn, C.R.
Y Waddle, T.W.
Y Walker, L.
Y Wall, V.
Ware, J.C.
Y Watson, R.H.Jr.
West, Jim
Y Wheeler, Bobby
White, J.
Y Whitmire, D.
Williams, H.L.
Williamson, G.
Y Wilson, J.M.
Y Wood, J.T.
Mr. Speaker

On the motion, the ayes were 126, nays 1.

The motion prevailed and the Senate amendment to HB 1583 was agreed to.

HB 1857. By: Representative Tucker of the 73rd: A BILL to create and establish a Small Claims Court in and for Henry County; to prescribe the jurisdiction of said court; to prescribe the pleading and practice in said court; to provide for the appointment, duties, powers, compensation, qualifications, substitutions and tenure of the office of the judge of said court; and for other purposes.

The following Senate amendment was read:

Amend HB 1857 as follows:
By striking from lines 11 and 12 on page 2 the following:
", have completed a high school education,".

Representative Tucker of the 73rd moved that the House agree to the Senate amendment to HB 1857.

Figure 20. LEGISLATIVE JOURNAL

in accordance with constitutional requirements or the rules of that house. A duly enrolled act, authenticated by the presiding officers of both houses, approved by the Governor, and deposited with the Secretary of State, will be conclusively presumed to have been enacted in accordance with necessary requirements, and no evidence to the contrary, even if reflected in the *Journal*, will be considered by the courts.[26]

PUBLIC INFORMATION SERVICES

Several steps have been taken by the Georgia legislature to better convey to the public general information on the operation of the General Assembly and specific information on the status of legislation during a session.

Public Information Office: This office was established in 1971 for the House, and in 1972 for the Senate. Both have full-time staffs to provide information services throughout the year.

During sessions of the General Assembly, each office attempts to compile day-by-day information relating to the status of bills originated in that house, committee schedules, committee recommendations on bills, and other pertinent information. Press releases are prepared on all general bills introduced in each house and on all interim committee reports. Between sessions, the offices issue press releases and, in general, provide other information to the public and news media as requested.

Television and Radio: Since 1971, public television has been utilized to cover sessions of the legislature. The Georgia Educational Television Network has provided excellent session coverage, supplemented by interviews and analyses, enabling state citizens to view taped coverage of each day's session in the evening hours.

The public information offices provide a radio service through which stations across the state may get taped excerpts of House or Senate action, or receive synopses of major legislative activity without charge.

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[26] *Williams v. MacFeeley*, 186 Ga. 145, 197 S.E. 225 (1938); *Thompson v. Talmadge*, 201 Ga. 867, 41 S.E. 2d 883 (1947); *Capitol Distributing Co. v. Redwine*, 206 Ga. 477, 57 S.E. 2d 578 (1950). The only exception to the "enrolled bill rule" appears to be the matter of notice of advertisement for local bills (which, incidentally, is not recorded in the *Journal*). Capitol Distributing Co., *supra*.

Telephones: The GIST telephone system at the State Capitol provides several long-distance lines for making calls to any location in the state or nation. These lines are available for use by any Senator or Representative needing to contact a constituent during a legislative session.

A toll-free telephone number is maintained at the State Capitol during legislative sessions by the public information offices so that any citizen in the state may call without charge and find the status of any bill before the General Assembly.

However, there are no toll-free lines for constituents across the state to use in contacting their legislators during sessions of the General Assembly. Nevertheless, there are facilities for handling incoming calls made at the constituent's expense. During the session, in the third floor rotunda of the Capitol, the telephone company sets up a switchboard staffed by an operator and pages. A central number is assigned for the General Assembly, and all calls to legislators at that number come in through the switchboard. Pages relay messages to individual legislators.

In addition to the switchboard in the telephone center, secretaries in offices equipped with telephones take calls for legislators. Lists of legislators' Atlanta and home telephone numbers are generally posted, so that incoming calls can be routed to the proper place, particularly after the daily session has adjourned.

LEGISLATIVE USE OF ELECTRONIC DATA PROCESSING (EDP)

Almost every state legislature in the nation—including Georgia—employs an in-house computerized legislative information system of some type.[27] Briefly, components of Georgia's legislative EDP system include:

Bill Typing: With this system, full texts of all first drafts of bills are entered into the memory files of the computer system at the time of initial typing, and coded for insertions, deletions, and various other changes. Only the first draft of a new bill need be typed and proofread in its entirety, and if it is later amended, only the changes must be entered and proofread. The computer takes care of all necessary adjustments, including automatic respacing of lines, paragraphs, and pages.

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[27] See James S. Elkins, Jr., *A Survey of the Use of Electronic Data Processing by State Legislatures* (Lexington, Ky.: Council of State Governments, 1975).

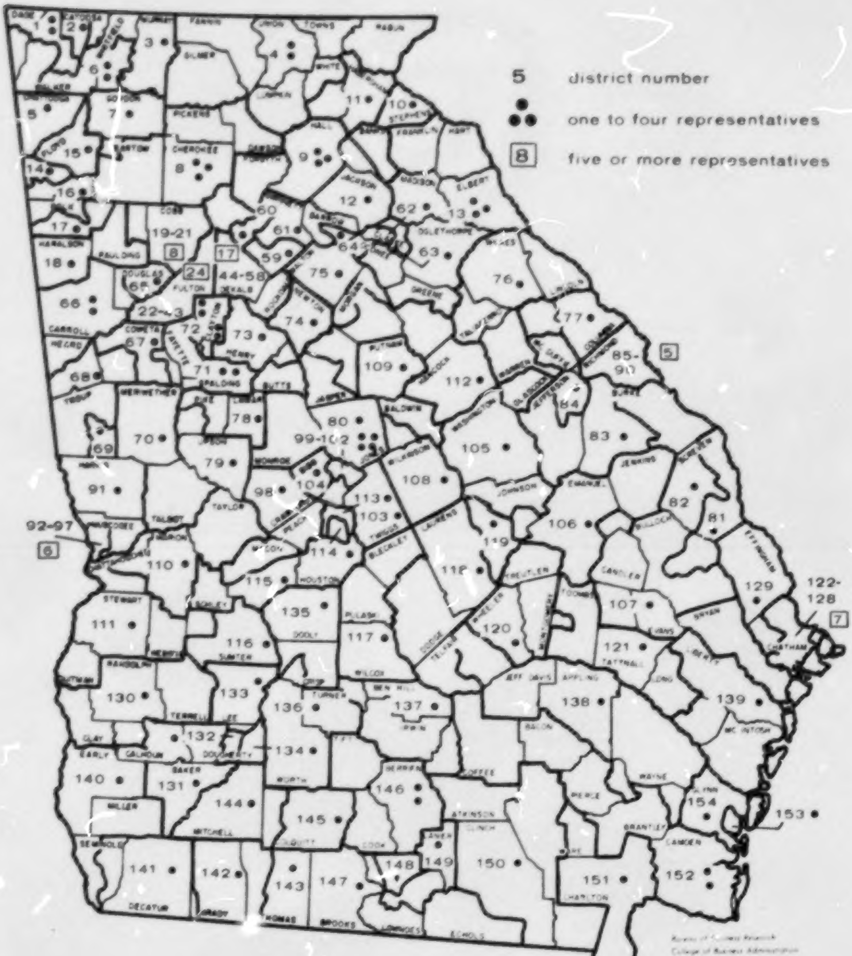
Statutory Retrieval: This system allows every word of statutes, laws, case law, constitutional provisions, attorney general opinions, and other documentation applicable to legislative enactments to be stored in a computer. A legislator drafting new legislation on a specific subject can therefore quickly and easily discover all the previous legislation and related legal material concerning the subject.

Currently, Georgia employs a statutory retrieval system, which interrelates with the bill typing system so that any statute can be recalled for bill drafting purposes.

Other: A computerized bill status reporting system is currently utilized by the House, though the Senate continues to use a manual system for recording the daily action on a bill within the legislature. Also, the House now employs the computer to arrange, index, and print its final *Journal* for the session.

Appendixes

Appendix 1 STATE HOUSE OF REPRESENTATIVE DISTRICTS



Bureau of Business Research
College of Business Administration
The University of Georgia
Athens, Georgia

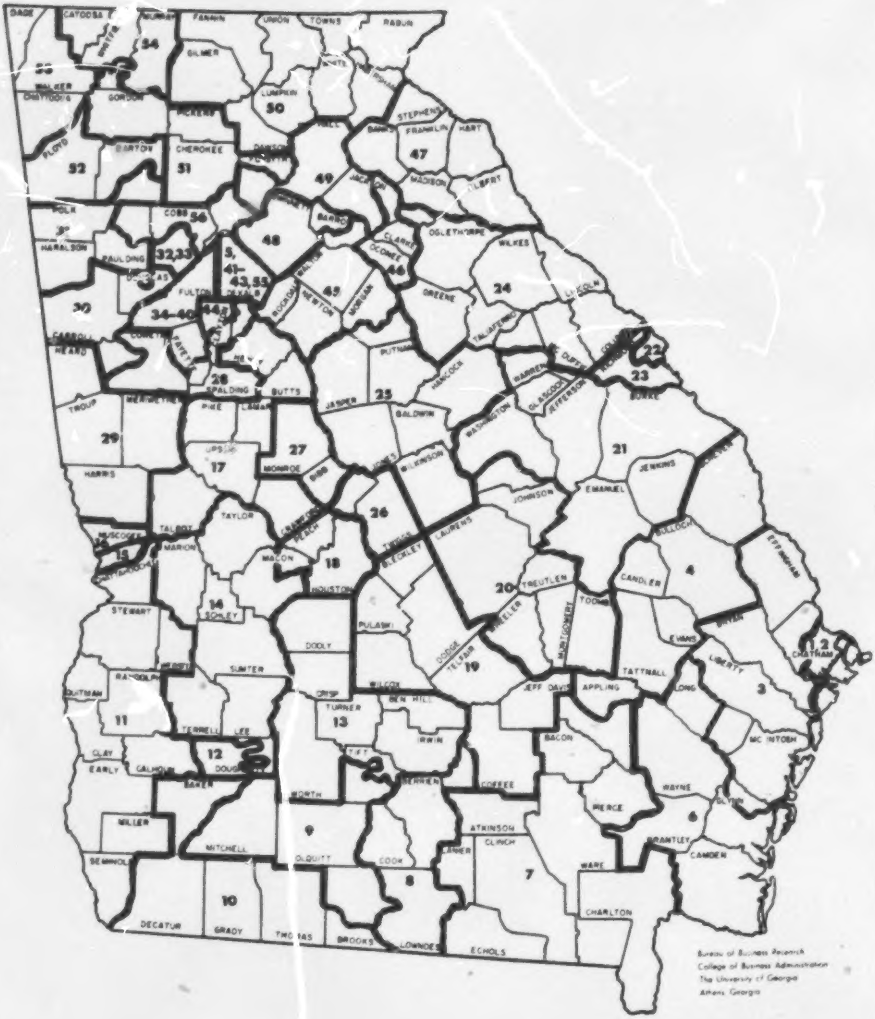
House Multi-Member Districts

Districts with 2 Representatives: 1, 4, 6, 21, 66, 71, 146, 152

Districts with 3 Representatives: 8, 9, 13, 19, 20, 43, 56

Districts with 4 Representatives: 72

Appendix 2 STATE SENATORIAL DISTRICTS



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College of Business Administration
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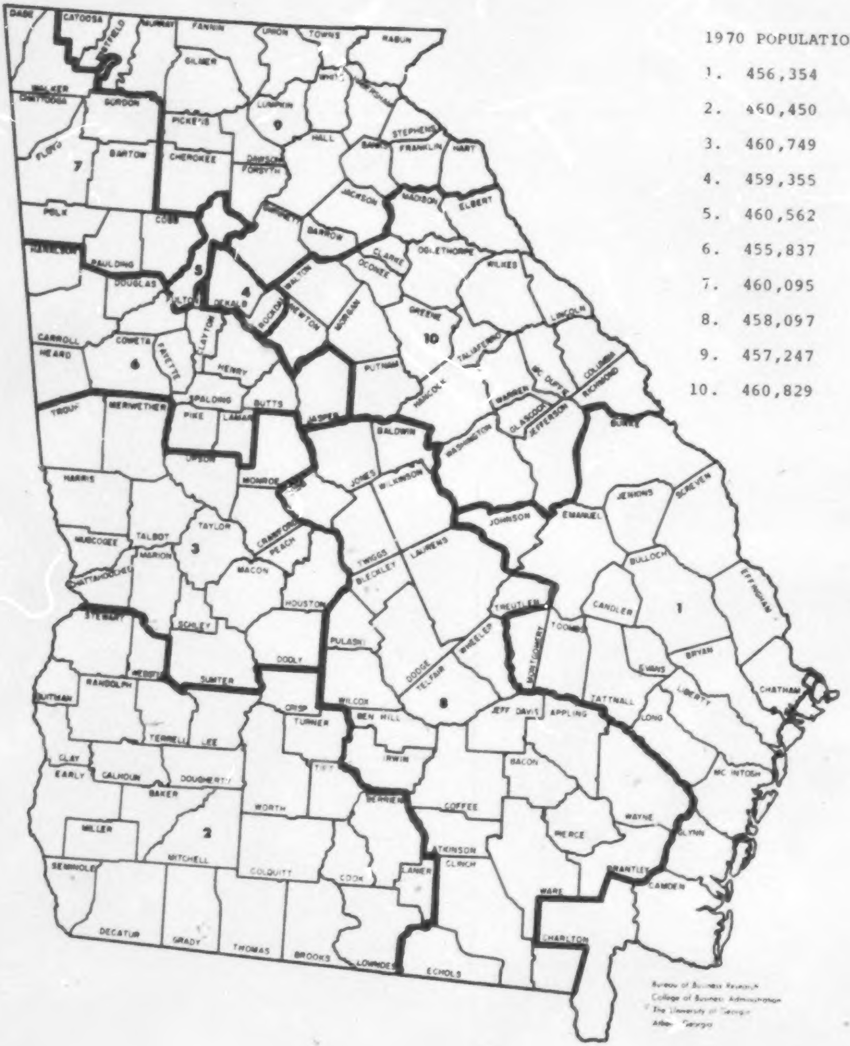
Athens, Georgia

Appendix 3 CONGRESSIONAL DISTRICTS IN GEORGIA



	1970 POPULATION
1.	456,354
2.	460,450
3.	460,749
4.	459,355
5.	460,562
6.	455,837
7.	460,095
8.	458,097
9.	457,247
10.	460,829

Bureau of Business Research
College of Business Administration
The University of Georgia
Athens, Georgia

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by Article, Section, and Paragraph

1945	1976	1945	1976	1945	1976
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1-1-2	1-2-3	1-5-2	1-1-25	3-7-4	3-7-1
1-1-3	1-1-1	1-6-1	1-3-2	3-7-5	3-7-2
1-1-4	1-1-9	2-1-1	2-1-1	3-7-6	3-7-5
1-1-5	1-1-11	2-1-2	2-1-2	3-7-7	3-7-3
1-1-6	1-1-13	2-1-3	2-2-2	3-7-8	3-7-4
1-1-7	1-1-18	2-1-4	2-1-3	3-7-9	3-10-4
1-1-8	1-1-15	2-1-5	2-2-3	3-7-10	3-7-9
1-1-9	1-1-14	2-1-6	2-2-4	3-7-11	3-10-1
1-1-10	1-1-21	2-2-1	2-2-1	3-7-12	3-10-2
1-1-11	1-1-12	2-3-1	2-3-1	3-7-13	3-7-10
1-1-12	1-1-2	2-4-1	2-3-2	3-7-14	3-7-7
1-1-13	1-1-3	2-5-1	2-3-5	3-7-15	3-7-9
1-1-14	1-2-10	2-6-1	2-3-4	3-7-16	3-7-12
1-1-15	1-1-4	2-7-1	2-3-3	3-7-17	3-8-5
1-1-16	1-1-10	3-1-1	3-1-1	3-7-18	3-8-7
1-1-17	1-1-19	3-2-1	3-2-1	3-7-19	3-7-6
1-1-18	1-1-22	3-3-1	3-3-1	3-7-20	3-8-1
1-1-19	1-2-5	3-3-2	3-3-1	3-7-21	3-7-11
1-1-20	1-2-6	3-4-1	3-5-1	3-7-22	3-5-6
1-1-21	1-1-20	3-4-2	3-5-2	3-7-23	9-4-2
1-1-22	1-1-5	3-4-3	3-5-3	3-7-24	4-6-2
1-1-23	1-2-4	3-4-4	3-5-5	3-7-25	3-8-11
1-1-24	1-1-6	3-4-5	3-5-4	3-7-26	3-12-1
1-1-25	1-1-25	3-4-6	3-5-7	3-8-1	3-4-3
1-2-1	1-1-8	3-4-7	3-5-8	3-9-1	3-5-9
1-2-2	1-1-16	3-5-1	3-2-2	3-10-1	3-5-13
1-2-3	1-1-17	3-5-2	3-4-1	3-11-1	3-5-9
1-2-4	1-2-11	3-5-3	3-6-2	4-1-1	3-8-9
1-2-5	1-2-12	3-5-4	3-6-2	4-1-2	3-8-10
1-2-6	1-2-13	3-5-5	3-6-3	4-2-1	3-8-2
1-3-1	1-3-1	3-6-1	3-3-2	4-2-2	3-8-3
1-3-2	1-1-7	3-6-2	3-4-2	4-3-1	3-8-6
1-3-3	7-1-5	3-6-3	3-6-1	4-4-1	3-8-8
1-4-1	1-2-7	3-7-1	3-5-10	4-4-2	3-8-8
1-4-2	1-2-8	3-7-2	3-5-11	4-4-3	4-1-1

1945	1976
4-5-1	1-1-24
4-6-1	3-9-3
4-6-2	3-9-4
4-6-3	3-9-5
4-6-4	3-9-1
4-6-5	3-9-2
5-1-1	5-1-1
5-1-2	5-1-2
5-1-3	5-1-3
5-1-4	5-1-4
5-1-5	5-1-5
5-1-6	5-1-7
5-1-7	5-1-6
	5-1-8
5-1-8	
5-1-9	5-1-9
5-1-10	5-2-1
5-1-11	5-2-2
	4-2-1
5-1-12	5-2-3
5-1-13	5-2-4
5-1-14	5-2-5
5-1-15	5-2-6
5-1-16	5-2-7
5-1-17	5-2-8
5-2-1	5-3-1
5-2-2	5-3-2
5-2-3	5-3-3
5-2-4	5-3-4
5-2-5	5-3-5
5-3-1	5-3-6
5-4-1	4-4-1
5-5-1	4-3-1
5-6-1	4-5-1
5-7 *	
5-8 *	
5-9 *	
5-10-1	4-7-1
5-10-2	4-7-1

*omitted

1945	1976
5-11-1	4-8-1
5-11-2	4-8-2
5-11-3	4-8-3
6-1-1	6-1-1
6-1-2	6-1-2
6-2-1	6-2-1
6-2-2	6-2-2
6-2-3	6-2-3
6-2-4	6-2-4
6-2-5	6-2-5
6-2-6	6-2-6
6-2-7	6-2-7
6-2-8	6-2-8
6-2-9	6-2-9
6-2-10	6-5-1
6-3-1	6-3-1
6-3-2	6-3-2
6-3-3	6-3-3
6-4-1	6-4-1
6-4-2	6-4-2
6-4-3	6-4-3
6-4-4	6-4-4
6-4-5	6-4-5
6-4-6	6-4-6
6-4-7	6-4-7
6-4-8	6-4-8
6-4-9	6-4-9
6-5-1	6-4-10
6-6-1	6-6-1
6-6-2	6-6-2
6-6-3	6-6-3
6-6-4	6-6-4
6-7-1	6-7-1
6-7-2	6-7-2
6-7-3	6-7-3
6-8-1	6-8-1
6-9-1	6-9-1
6-10-1	6-10-1
6-10-2	6-10-2
6-11-1	6-11-1
6-11-2	6-11-2

1945	1976
6-11-3	6-11-3
6-12-1	6-12-1
6-12-2	6-12-2
6-13-1	6-13-1
6-13-2	6-13-2
6-13-3	6-13-3
6-14-1	6-14-1
6-14-2	6-14-2
6-14-3	6-14-3
6-14-4	6-14-4
6-14-5	6-14-5
6-14-6	6-14-6
6-15-1	6-14-7
6-16-1	6-15-1
6-16-2	6-15-2
6-16-3	6-15-3
6-17-1	9-1-7
6-18-1	6-16-1
6-18-2	6-16-2
7-1-1	7-1-1
	3-8-12
7-1-2(1)	3-8-12
	10-2-12
7-1-2(2)	3-8-12(2)
7-1-2(3)	7-1-2
7-1-2(4)	
7-1-2(5)	10-2-3
7-1-2(5,1-A)	10-2-6
7-1-2(6)	10-2-7
7-1-2(7)	10-2-10
7-1-2(8)	10-2-8
7-1-2(9)	10-2-4
	10-2-5
	10-2-11
	10-2-9
	10-2-14(a)
	10-2-14(b)
	3-8-12(5)
	10-2-12
	3-8-12(6)
	10-2-15

1945	1976
	10-1-5(c)
	10-2-1
	10-2-13
	10-1-5(a)
	10-1-5(b)
7-1-3	7-1-3
7-1-4	7-1-4
7-1-5	
7-2-1	7-2-1
7-2-2	10-1-1
7-2-2-A	10-1-3
7-2-3	7-2-3
7-2-4	7-1-3
7-2-5	10-1-4
7-2-6	7-2-4
7-2-6(A)	7-2-5
7-3-1	7-3-1
7-3-2	7-3-2
7-3-3	7-3-3
7-3-4	7-3-4
7-3-4-A	7-3-5
7-3-5	7-3-6
7-3-6	7-3-7
7-3-7	7-3-8
7-3-8	7-3-9
7-3-9	7-3-10
7-4-1	9-5-1
7-4-2	9-5-2
7-4-3	9-5-3
7-4-4	9-5-4
7-4-5	
7-4-6	
7-5-1	9-4-3
7-6-1(a)	9-6-1(a)
7-6-1(b)	9-6-1(b)
7-6-1(c)	9-6-1(c)
7-6-1(d)	8-9-1
7-6-3	9-6-2
7-7-1	9-7-1
7-7-2	9-7-2
7-7-3	9-7-3
7-7-4	9-7-4
7-7-5	9-8-1
7-7-5-A	9-8-2
7-7-6	9-8-3
7-7-7	9-8-4
7-8-1	9-8-5
7-9-1	3-10-3
7-9-2	3-10-5
7-9-3	3-10-6
7-9-4	3-10-7
7-9-5	3-8-8
7-10-1	13-1-2
8-1-1	8-1-1
8-2-1	8-2-1
8-3-1	8-3-1
8-4-1	8-4-1
8-5-1	8-5-1
	8-5-2
	8-5-1(a)
	8-5-2(d)
	8-5-2(b)
8-6-1	8-5-5
8-6-2	8-5-5(b)
8-7-1	8-5-6
8-8-1	8-5-3
8-9-1	8-5-1
	8-5-2(c)
8-9-2	8-5-4
8-10-1	8-5-7
8-11-1	8-6-1
8-11-2	8-6-2
8-12-1	8-7-1
8-12-2	8-7-2
8-13-1	10-2-2
8-13-2	8-8-1
9-1-1	1-1-23
9-1-2	1-1-23
9-3-1	9-4-2
10-1-1	3-11-1
10-1-2	3-11-2
10-1-3	3-11-3
10-1-4	3-11-4
11-1-1	9-1-1
11-1-2	9-1-2
11-1-3	9-1-3
11-1-4	9-1-10
11-1-6	9-1-6
11-1-7	9-4-1
11-1-8	9-1-4
11-1-9	9-1-4
11-2-1	9-1-8
11-2-2	9-1-9
12-1-1	11-1-1
12-1-2	11-1-2
12-1-3	
12-1-4	11-1-3
12-1-5	11-1-4
12-1-6	13-1-1
13-1-1	12-1-1
13-1-2	12-1-2
13-1-3	12-1-3
13-1-4	12-1-4
14-1-1	4-6-1
14-1-2	10-1-2
15-1-1	9-3-1
15-2-1	9-2-1
15-2-2	9-2-2
15-2-3	
15-2-4	9-2-3
15-2-5	
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CLASSROOM ACTIVITIES TO USE WITH HANDBOOK FOR GEORGIA LEGISLATORS, 6TH EDITION

includes

1. Test or Worksheet on Legislative Process in Georgia
2. Key to Worksheet
3. Legislative Terms
4. How a Bill Becomes a Law (chart)
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INSTITUTE OF GOVERNMENT
UNIVERSITY OF GEORGIA
APRIL 1977

THE LEGISLATIVE PROCESS IN GEORGIA

NOV 11 1977

INSTRUCTIONS: These questions are designed to familiarize you with the basics of the legislative process in Georgia, particularly the procedure by which a bill becomes a law. Try to answer each question, then check your answer in the Handbook for Georgia Legislators, 6th Edition.

1. What is the difference between a "bill," and "act," a "law," a "statute," and a "code"? What is a "title" of a bill? (HGL, pp. 77-78, 101-103)
2. Distinguish between a "general" bill and a "local" or "special" bill in the legislature. Why are so many local bills presented at each session? What is a "population" bill? (HGL, pp. 78-90)
3. Distinguish between a "bill" and a "resolution" in the Georgia General Assembly. (HGL, pp. 77, 90)
4. What are the functions of the Clerk of the House, Secretary of the Senate, and the Legislative Counsel? (HGL, pp. 40-41, 121, 186)
5. What are "House Rules" and "Senate Rules," and what function do they serve? (HGL, pp. 155-157)
6. Who may introduce a bill in the Georgia General Assembly? May the Governor? (HGL, p. 119)
7. May any bill on any subject be introduced in either house What is the procedure for introducing a bill? (HGL, pp. 119-122)
8. Why are bills read aloud in each house? When is a bill read the first time? The second time? Can a bill be debated or voted upon at this stage? (HGL, p. 129)
9. What are "standing committees" and what purpose do they serve? Who appoints the chairmen and other officers of standing committees in each house? (HGL, pp. 45-49, 131-132)
10. Who assigns bills to committees? If unhappy with an assignment, can a member do anything about it? (HGL, p. 131)
11. What happens when a bill is considered in committee? Can the public attend and testify for or against a bill being considered in committee? (HGL, pp. 131-132)
12. What possible actions may a committee take on a bill? (HGL, p. 132)
13. What happens to a bill following committee recommendation on that bill? (HGL, pp. 133-138)
14. How is a bill read the third time? Can floor action on a bill occur during the third reading? (HGL, p. 131)
15. When do members of a house actually get the opportunity to debate and amend a bill on their floor Are filibusters possible in either house (HGL, pp. 138-139)
16. Is it possible to prevent a bill from being amended in committee or on the floor of a house? (HGL, pp. 143-144)

17. What are the different methods used in the House and Senate to vote on a bill or on amendments? What size vote is required to pass a bill in either house? (HGL, pp. 139-143)

18. Where can you find how a particular legislator voted on a motion or a bill on the floor? (HGL, p. 194)

19. What is a "floor substitute" with regard to a bill? (HGL, pp. 169-171)

20. What happens to a bill after it passes the house where it was introduced? (HGL, pp. 144-147)

21. What happens if the second house to consider a bill amends it? (HGL, p. 144)

22. If the first house to consider a bill refuses to accept the amendments made by the second house, what then happens to the bill? (HGL, pp. 144-145)

23. What happens when a conference committee submits a report? (HGL, pp. 145-147)

24. What actions may the Governor take on a bill submitted to him? (HGL, pp. 147-149)

25. What happens when a bill contains conflicting provisions? What happens when at the same session, the General Assembly enacts conflicting laws? (HGL, pp. 104-105)

Institute of Government
The University of Georgia
March 1977

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THE LEGISLATIVE PROCESS IN GEORGIA
(KEY)

INSTRUCTIONS: These questions are designed to familiarize you with the basics of the legislative process in Georgia, particularly the procedure by which a bill becomes a law. Try to answer each question, then check your answer in the new revision of the Handbook for Georgia Legislators.

---

1. What is the difference between a "bill," an "act," a "law," a "statute," and a "code?" What is the "title" of a bill? (HGL, pp. 77-78, 101-103)

ANSWER: The term BILL refers to proposed legislation, from the initial draft introduced in the House or Senate, through the various committee and floor stages in both houses, to the enacted law.

When a bill passes both houses in identical form and is signed by the Governor, becomes law without the Governor's signature, or is passed over the Governor's veto, that bill becomes an "act," "law," or "statute." Though these designations are used interchangeably, there is a slight distinction among the terms, depending on the context in which the word is used. Any bill enacted by the legislature can correctly be termed an ACT. The term STATUTE denotes a formal and permanent enactment of the legislature (as distinguished from appropriation acts and other short-term legislation), and is used to designate written law. LAW, a general term, is used to refer to legally enacted bills of the legislature, constitutional provisions, and judicial interpretations which accompany or pertain to a particular act.

A CODE is a comprehensive compilation of existing statutes and their revisions, usually arranged by title, chapter, and section according to subject matter. An official code generally seeks to include the complete body of law on all subject matter, systematically arranged, internally consistent, with all conflicts harmonized. It comes into being when existing statutes are reenacted as one new law. An unofficial code will also seek to include a complete collection of statutes, but is compiled without legislative reenactment. Unlike an official code - which is the law - the unofficial code merely collects separate statutes (which may conflict with each other) and arranges them by subject matter.

The GEORGIA CODE OF 1933 is this state's official code, and is so called because this is the date of the last comprehensive codification of Georgia laws by the General Assembly.

Although a number of the titles of the Georgia Code of 1933 have been revised or incorporated by official action of the legislature through the years, many laws have been enacted since 1933 without reference to the official code, and thus are not part of this code.

A more complete, though unofficial, codification of Georgia statutory law is found in the Georgia Code Annotated, published by the Harrison Company, a private firm in Atlanta. Harrison's annotated code includes the Code of 1933 as revised, supplemented by other legislative acts which have not been officially codified. Also included are editorial notes about the laws and annotations of state appellate courts and federal courts construing Georgia law. The Georgia Code Annotated, however, has not been enacted as the comprehensive body of law for the state by the legislature, an action necessary before it can become the official law of Georgia.

The TITLE of a bill is a formal introductory paragraph summarizing what the bill will do and what statutes will be affected. Its purpose is to alert the legislator and public to the major provisions of a bill. (The title of a bill should not be confused with a code title, which is simply a major subject area within a code.)

2. Distinguish between a "general" bill and a "local" or "special" bill in the Georgia General Assembly. (HGL, pp. 77-90) Why are so many local bills presented at each session? What is a "population" bill? (HGL, pp. 78-90)

ANSWER: Bills considered by the General Assembly are classified as either (1) general, or (2) local or special.

GENERAL LAWS have statewide application. A law may be categorized as general because of its uniform territorial application (e.g., a law affecting all counties), its uniform subject matter application (e.g., a law affecting all income tax rates), by a combination of both of these, or because of its application to the structure, powers, or officials and employees of state government. The Constitution declares all general laws shall have uniform application throughout Georgia, and no local or special law may be passed in areas covered by a general law.

POPULATION ACTS are a hybrid variety of general legislation. A population act is a general law, but one which affects only those localities in the state within a certain population bracket as specified in the act (e.g., a law providing that the probate judge in counties whose population is not less than 23, 450 nor more than 23, 530 according to the 1970 census or any future such census, shall be authorized to appoint a clerk whose salary shall be paid by county funds and shall not exceed $5,000 per annum). Usually, the population limits are devised so only the locality with which the legislator wishes to deal will be affected. However, population brackets too tightly drawn may be subject to court challenge as to constitutionality. Also, cities and counties change population from census to census, and a local government's population acts may be invalid if it passes out of the specified brackets.

LOCAL LAWS or SPECIAL LAWS are those laws applying to particular places or persons instead of classes of persons or subjects. Local laws are primarily used to provide for the structure, legal status, powers, and operations of local governments in Georgia. As previously noted, no local act can be passed in an area covered by a general law.

The great number of local acts introduced at each session is essentially due to the fact that cities and counties in Georgia are fundamentally creatures of the state and exercise only limited amounts of "home rule" over themselves. Thus, the great bulk of laws providing for the legal status, powers, and structure of local governments in Georgia must come from the General Assembly in the form of local acts. Local acts for a city or county are submitted in the House or Senate by a legislator from that city or county, according to specific constitutional procedures and by the standing committee which will consider the legislation. For instance, in addition to the constitutional requirements for advertising local legislation before introduction, legislative rules generally dictate that at least two-thirds of a city's or county's legislative delegation must approve a local act before it will be favorably considered by the committee. There is no formal requirement for approval by the mayor, city councilmen, or county commissioners for introduction of local legislation in the General Assembly. However, under the tradition of "local courtesy" or "legislative courtesy," local legislation approved by a city's or county's local delegation will not be opposed by the other members of the legislature.

3. Distinguish between a "bill" and a "resolution" in the Georgia General Assembly. (HGL, pp. 77, 90)

ANSWER: A resolution may or may not be intended to have the force of law a bill has. This depends on the subject matter and intent of the legislature. Resolutions express formal legislative opinion on a subject, but may be used for other purposes. Another distinction between a bill and resolution is a bill usually proposes changes or additions to the existing body of statute law, while a resolution does not usually attempt to change it. Also, bills, not resolutions, comprise the major legislative product of the two houses.

4. What are the functions of the Clerk of the House, Secretary of the Senate, and the Legislative Counsel? (HGL, pp. 40-41, 121, 186)

ANSWER: The Clerk is the chief administrative officer of the House of Representatives, as is the Secretary in the Senate. Both officers are elected by the membership of the House or Senate, although neither is a legislator. All bills to be introduced in either house must first be filed with the Clerk or Secretary. He numbers the bill, prints multiple copies of the bill for the membership, maintains and certifies a daily record of all legislative actions on the bill, and performs numerous other administrative functions with regard to the operations of the House or Senate.

The Legislative Counsel is an attorney skilled in legislative matters and bill drafting, and is elected by the Legislative Services Committee. The Legislative Counsel and staff provide assistance to the Legislative Services Committee, as well as providing reference materials, legislative counseling, and bill drafting services to every member of the General Assembly.

5. What are "House Rules" and "Senate Rules," and what function do they serve? (HGL, pp. 155-157)

ANSWER: The House Rules and Senate Rules are procedural guidelines adopted by each house at the beginning of each session to govern legislative conduct and action. These procedural rules are an addition or elaboration of constitutional and statutory provisions governing the houses. When compiled they serve as the official manual of parliamentary procedure for each house.

6. Who may introduce a bill in the Georgia General Assembly? May the Governor? (HGL, p. 119)

ANSWER: Only a member of the General Assembly can introduce bills. The Governor introduces no legislation directly, although he may designate a house member or members to introduce legislation he recommends or desires. The Georgia Legislature permits multiple sponsorship of legislation within a house, but not cosponsorship of legislation by members of both houses.

7. May any bill on any subject be introduced in either house? What is the procedure for introducing a bill? (HGL, pp. 119-122)

ANSWER: Any bill or resolution on any subject can be introduced in either house, except that revenue and appropriation measures must be introduced in the House. This exception traces to British parliamentary practice that all money bills must originate in the legislative chamber more closely representative of the people.

To introduce a bill, a member in the House must file a draft of the bill with the Clerk, who assigns a number to the bill and enters appropriate information about the measure in the records of that office. In the Senate, it is the Secretary with whom the bill is filed.

Designated staff members, in the offices of the Clerk and Secretary, file bills for introduction for legislators, although during a session, a member may leave a bill for introduction with the Clerk or Secretary at their designated podium at the front of their chambers.

There is no formally designated "hopper" into which bills are placed for introduction, though the phrase "putting a bill in the hopper" is commonly used to refer to the bill introduction process.

8. Why are bills read aloud in each house? When is a bill read the first time? The second time? Can a bill be debated or voted upon at this stage? (HGL, p. 129)

ANSWER: Bills are read aloud in each house because of a constitutional requirement, dating back to 1777, that every bill must be read three times, on three separate days in each house before it can pass. This comes from the time when bills were handwritten, and the reading allowed members to know what the bill said.

In actual practice, the first and second readings are by title only. No floor debate or voting occurs at this stage. Rules of the House provide that bills are automatically passed to a second reading on the legislative day following the first reading, even though the second reading occurs while the bill is in custody of a committee. In the Senate, the second reading occurs only after the standing committee reports the bill back to the Senate.

9. What are "standing committees" and what purpose do they serve? Who appoints the chairmen and other officers of standing committees in each house? (HGL, pp. 45-49, 131-132)

ANSWER: Standing committees are groupings of legislators in each house who study and consider bills and resolutions assigned to them, hold hearings, invite testimony, and report back to the house on their recommendations. Most legislatures rely on the standing committees for close scrutiny of a large number of bills. In the Georgia House and Senate, the committee report often determines the fate of a bill or resolution.

The Speaker in the House and the Committee on Committees in the Senate appoint the chairmen, the vice chairmen, and the secretaries for all standing committees and all subcommittees of such standing committees.

10. Who assigns bills to committees? If unhappy with an assignment, can a member do anything about it? (HGL, p. 131)

ANSWER: The presiding officer of the House or Senate commits the measure "to the proper committee," unless otherwise ordered by the House or Senate. The determination of the "proper" committee is completely discretionary with the presiding officer.

Though it seldom occurs, the presiding officer's assignment of bills to committees may be overridden by the membership. A majority vote of a quorum present is required for such a motion to pass.

11. What happens when a bill is considered in committee? Can the public attend and testify for or against a bill being considered in committee? (HGL, pp. 131-132)

ANSWER: Committee meetings are open to the public in both houses, except that when two senators and two representatives on a conference committee feel that open meetings are impairing the committee's work, they may meet in executive, or closed, sessions if their request is approved by a majority of the membership in each house.

12. What possible actions may a committee take on a bill? (HGL, p. 132)

ANSWER: After its study, investigation, public hearings, and other deliberations, a committee may dispose of a measure in several ways:

(1) The committee may report the measure, with no changes, back to the house with a "Do Pass" recommendation.

(2) The committee may report the measure back to the house, with changes, with a "Do Pass With Amendments" or a "Do Pass By Substitute" recommendation.

(3) The committee may report the bill back to the house with a "Do Not Pass" recommendation.

(4) The committee may hold the bill without reporting back to the house.

[Although there is no rule in the House of Representatives providing for the procedure, occasionally a committee may report the bill back to the House without recommendation. In the Senate, bills reported out of committee must come with a recommendation.]

13. What happens to a bill following committee recommendation on that bill? (HGL, pp. 133-138)

ANSWER: If a bill or resolution is favorably reported by the standing committee which studied it, the measure is placed on the general calendar for floor consideration by all members. Throughout the session, the Clerk and Secretary prepare daily a GENERAL CALENDAR - a daily list of the bills and resolutions favorably reported from committee and ready to receive legislative consideration on the floor of a house. But, this calendar governs the daily legislative agenda for the first nineteen days of a session only. During the last twenty-one days, a special calendar - the RULES CALENDAR - becomes controlling, since by this time a backlog of bills ready for floor consideration has developed, and it would be physically impossible to consider all bills listed on the general calendar. From those measures listed on the daily general calendar, the Rules Committee of each house draws bills it considers more important or deserving of floor consideration for the next day. Thus, during the last half of the session, it would be possible for a bill to be favorably reported from committee, but never come up for a floor vote because that bill is repeatedly omitted from the rules calendar.

If the committee reported the bill with a "Do Not Pass" recommendation, the measure is dead, unless a member requests that the measure be brought before the body for the purpose of disagreeing with this unfavorable report. If the house agrees with the committee's report, the bill is dead for that session. If the house votes to disagree with the unfavorable report, the bill is placed on the general calendar.

If, after ten days, a committee in the House of Representatives refuses to report a bill out, any member of the House may submit a motion to instruct the committee to report the bill back to the House, with or without recommendation, on the next day. Such motion requires two-thirds of a quorum present and voting. In the Senate, there is no provision for removing a bill from committee when that committee refuses to report the bill back to the floor.

14. How is a bill read the third time? Can floor action on the bill occur during the third reading? (HGL, p. 131)

ANSWER: When a bill is read the third time, it is read aloud by the Clerk or Secretary in its entirety, section by section, word for word. At this time, the bill may be recommitted to the same or another committee, may be debated, may be amended, and may be replaced by a floor substitute. After such debate and amendment, if not tabled or postponed, the bill is voted upon by the membership.

15. When do the members of a house actually get to debate an amended bill on the floor of that house? Are filibusters possible in either house? (HGL, pp. 138-139)

ANSWER: No debate or voting on a bill can occur until after the third reading. Filibusters, as such, do not occur. No member of the House can occupy the floor longer than one hour in debating any question, and during the last two days of a session, individual floor debate is limited to twenty minutes. A motion to extend the time of individual speeches requires a two-thirds majority of a quorum present.

In the Senate, individual speeches are limited to thirty minutes, unless extended by a majority of a quorum present. On points of personal privilege in the Senate, speeches are limited to ten minutes.

16. Is it possible to prevent a bill from being amended in committee or on the floor of a house? (HGL, pp. 143-144).

ANSWER: At the time of first reading on the day of a bill's introduction - and at this time only - a motion to ENGROSS a bill may be made. Ordinarily, engrossment occurs as the final stage of the legislative process in the house where a bill as introduced, and involves verification and certification of the final version of the bill to make sure it is identical with the original bill as introduced, with all amendments correctly inserted.

If, however, two-thirds of the members present vote to engross a bill at the time of introduction, the bill as introduced is engrossed, or certified as the final copy, and it may not thereafter be amended in that house, unless later recommitted to a standing committee from the floor.

17. What are the different methods used in the House and Senate to vote on a bill or on amendments? What size vote is required to pass a bill in either house? (HGL, pp. 139-143)

ANSWER: Subject to constitutional provisions and the rules of a house, voting in either house on legislation or procedural questions may be by roll call on the electronic voting machine (sometimes referred to as a vote by "ayes and nays" or by "yeas and nays"), by voice vote (viva voce), by a show of hands (division), or by unanimous consent.

The Georgia Constitution requires that a bill, in order to pass, must receive a majority of the votes of all the members elected to the House and of all the members elected to the Senate.

18. Where can you find how a particular legislator voted on a motion or a bill on the floor? (HGL, p. 194)

ANSWER: The Journal of each house will list the names of all members and how they voted (or if they did not vote), but only where a roll call vote was utilized. If the vote was by show of hands, the total numbers for and against the measure are noted, and if the vote was by voice vote or unanimous consent, the Journal only records whether the question or measure passed or failed. During a session, this information can be obtained from the Clerk or Secretary, and following the session published in the Journal for that session.

19. What is a "floor substitute" with regard to a bill? (HGL, pp. 169-171)

ANSWER: Though classified by House and Senate rules as an amendment to a bill, a floor substitute represents an entire bill offered on the floor in the place of the one originally introduced and reported out of committee. Floor substitutes are not required to be cleared by the authors of the original bill or by the committee to which the bill was assigned. They may be submitted only during the period for debate and amendment following the third reading.

20. What happens to a bill after it passes the house where it was introduced? (HGL, pp. 144-147)

ANSWER: After a bill has passed in the house where it was introduced, that bill is engrossed by the Clerk or Secretary. ENGROSSMENT is a proofreading and verification of a bill or resolution after passage to make certain that the copy being certified is identical with the original bill as introduced, with all amendments correctly inserted.

Following engrossment, the bill is prepared for transmittal to the other house by the messenger. Except for the last three days of a session, a measure cannot be sent to the other house on the same day that it passes the first unless two-thirds of a quorum present in the first house approve.

In the second house, the bill goes through substantially the same procedure as it did in the first.

21. What happens if the second house to consider a bill amends it? (HGL, p. 144)

ANSWER: The bill with amendments is then returned to the house of origin, where the amendments will be considered. The house of origin may accept these amendments and transmit the measure to the Governor. On the other hand, the house of origin may amend the amendments offered by the second house, in which event, the bill is returned to the second house. The second house must then either accept or reject the amendments to its amendments. If the second house rejects these amendments, the two houses may appoint a conference committee to attempt to work out a compromise measure.

22. If the first house to consider a bill refuses to accept all the amendments made by the other house, what then happens to the bill? (HGL, pp. 144-145)

ANSWER: If the house of origin votes to disapprove the amendments of the other house, the measure is returned to the second house, which may either recede from its amendments or insist upon its disagreement. A conference committee may be created to work out a compromise measure.

23. What happens when a conference committee submits a report? (HGL, p. 145)

ANSWER: Before the report of a conference committee can be transmitted to either the House or Senate for action, it must be approved by a majority vote of the entire membership of the committee. Once approved, the report is printed and distributed to the members of each house. The report of the conference committee must be adopted by the Senate or House by the vote which is required to pass the bill, resolution, or matter under consideration. If both houses adopt the report, or compromise bill, it is forwarded to the Governor. If the report is not accepted, the conference committee may meet again, or a new conference committee may be appointed.

24. What actions may the Governor take on a bill submitted to him? (HGL, p. 147-149)

ANSWER: After a bill has been passed by both houses of the General Assembly, it must be sent to the Governor. He then has five days (excluding Sundays) to take action on that bill, providing the legislature remains in session during that time. For bills received from the General Assembly during the last five days of a session, the Governor has 30 days following adjournment to take action.

The Governor may approve the bill and sign it, in which event the bill becomes a law. The Governor may choose not to sign or veto the bill, and the bill automatically becomes law at the end of the five days (or the 30 days after the session). The Governor may veto the bill, returning the vetoed bill to the house of its origin. To override a veto, a two-thirds vote of the total membership in each house is required. If the veto is overridden, the bill becomes a law without the approval of the Governor. However, if the attempt to override fails, that bill cannot again be brought before the legislature for the purpose of overriding the Governor's action.

25. What happens when a bill contains conflicting provisions? What happens when at the same session the General Assembly enacts conflicting laws? (HGL, pp. 104-105)

ANSWER: Where laws or provisions within an act conflict, the courts regard the last expression of legislative will, or intent, as controlling. This rule applies not only to acts passed at different sessions, but those passed at the same session, in which event the act signed last by the Governor will control. The same principle applies if two provisions within a single act conflict, with the last provision in the act presumed to be the last expression of legislative will.

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LEGISLATIVE TERMS

ACT—A bill which has passed both houses of the General Assembly in identical form and become law, with or without the Governor's signature. A "general act" has uniform application throughout the state, while a "local act" applies only to a specific city or county.

ADJOURNMENT—Suspension of a legislative session. "Adjournment until a day certain" is a temporary suspension of proceedings during a session, while "adjournment sine die" marks the final closing of a session.

ADMINISTRATION FLOOR LEADER—A legislator chosen in each house by the Governor to introduce and support bills favored or initiated by the Governor or his administration.

APPROPRIATION—The budget act which authorizes the spending of public money for specific purposes.

BILL—A proposed law. Bills usually propose changes or additions to the existing statutory law.

CALENDAR—A daily listing of the bills and resolutions which have been reported from committee and are ready for third reading, debate, and voting by the full membership of a house. A "general calendar," prepared by the Clerk of the House and the Secretary of the Senate, governs the order of business for the first 19 days of a session. A "rules calendar" sets the daily agenda for the last 21 days of a session, and is prepared by the rules committee of each house.

CAUCUS—A group of legislators who associate together on the basis of membership in a political party or common interests, and meet to discuss policy and strategy and coordinate their legislative efforts.

CLERK OF THE HOUSE—He is the chief administrative officer of the House of Representatives. Though not a representative, the Clerk is a full-time staff official whose duties include: receiving and printing all bills introduced in the House; recording all votes taken on the floor; and certifying the daily record of legislative action on bills and resolutions.

CODE—A collection of a government's statutes and their revisions. A state's code is usually found in a series of volumes according to subject matter (and is usually subdivided by title, chapter, and section).

COMMITTEE—Committees of legislators include: (a) the "standing committee" which studies proposed legislation in some general field of legislative activity (e.g., agriculture, education, and health) and recommends to the full membership whether that legislation should be supported or not; (b) the "conference committee" which is composed of members appointed from both houses to reconcile differences in versions of a specific bill; (c) the "interim committee" which is appointed to meet between legislative sessions to study a particular problem and report back to the full membership; (d) the "Committee of the Whole" which is the designation for either house when its entire membership meets as a committee to study matters under house rules relaxed to permit more informal discussion.

CONSTITUTIONAL MAJORITY—The Georgia Constitution requires a majority of the entire membership (regardless of how many are actually present) to vote for the passage of bills and resolutions which will have the effect of law. In contrast, many motions on procedural matters require only a "simple majority," or a majority of those present and voting.

ENROLLMENT—Preparation of a bill in its final and official form to show the precise language of the measure as passed by both houses.

HOPPER—The symbolic name for the place where legislators file bills for introduction with the Clerk of the House or Secretary of the Senate. "Putting in the hopper," means introducing a bill.

JOURNAL—The official record of legislative proceedings in each house.

LAW—A general term, usually used for official acts and statutes of the legislature.

LEGISLATIVE COUNSEL—The staff office which provides bill drafting, legal counseling, reference, and other legal assistance and services to members of the General Assembly.

LOBBYING—Attempts by a person or group acting on behalf of others to influence legislation.

MAJORITY FLOOR LEADER—That member chosen by each house's majority party caucus to manage the passage of those bills it favors.

MOTION—A formal proposal made by a legislator to take some type of procedural action, such as adjourning or holding a roll call vote.

PRESIDENT OF THE SENATE—The title of the Senate's presiding officer, the Lieutenant Governor. "President Pro Tempore" is the senator elected by the other members to take the place of the President in case of absence, disability, or resignation.

QUORUM—The minimum number of members required to be present to perform house business. In the General Assembly, the quorum for each house is a majority of its total members.

READINGS OF A BILL—The actual reading of a bill on three separate days in each house (the first two readings of which are by title only, with the third reading in its entirety) required by the Georgia Constitution before a bill can be debated, amended, and voted on by the house.

RESOLUTION—A legislative proposal, similar to a bill, that usually is used to express the opinion or will of one or both houses, for example, expressions of sympathy or appreciation. Resolutions usually do not deal with statutory law.

RULES OF EACH HOUSE—The procedural rules or guidelines adopted by each house to govern its legislative conduct and action.

SECRETARY OF THE SENATE—The chief administrative officer of the Senate, equivalent to the Clerk of the House, with the same status and duties.

SPEAKER OF THE HOUSE—The presiding officer of the House, a member of that body, is elected every two years. The many powers of this office include appointment of committees and their officers and assignment of bills to committee. The "Speaker Pro Tempore" is that member elected to preside in the Speaker's absence.

STATUTE—The written, permanent law formally enacted by the legislature.

TITLE—A bill's introduction summarizing and listing the subject matter of the bill as well as statutes affected by it.

VETO—The Governor's disapproval of a bill passed by the General Assembly. Unless overridden by a two-thirds vote of the total membership of each house, a veto prevents a bill from becoming law.

WELL, TAKING OF—Term used for a legislator to speak for or against a bill to the other members from the lectern ("well") at the front of the chambers in the House and Senate.

YEAS AND NAYS—A roll call vote, usually taken on the electronic voting system.

HOW A BILL BECOMES A LAW

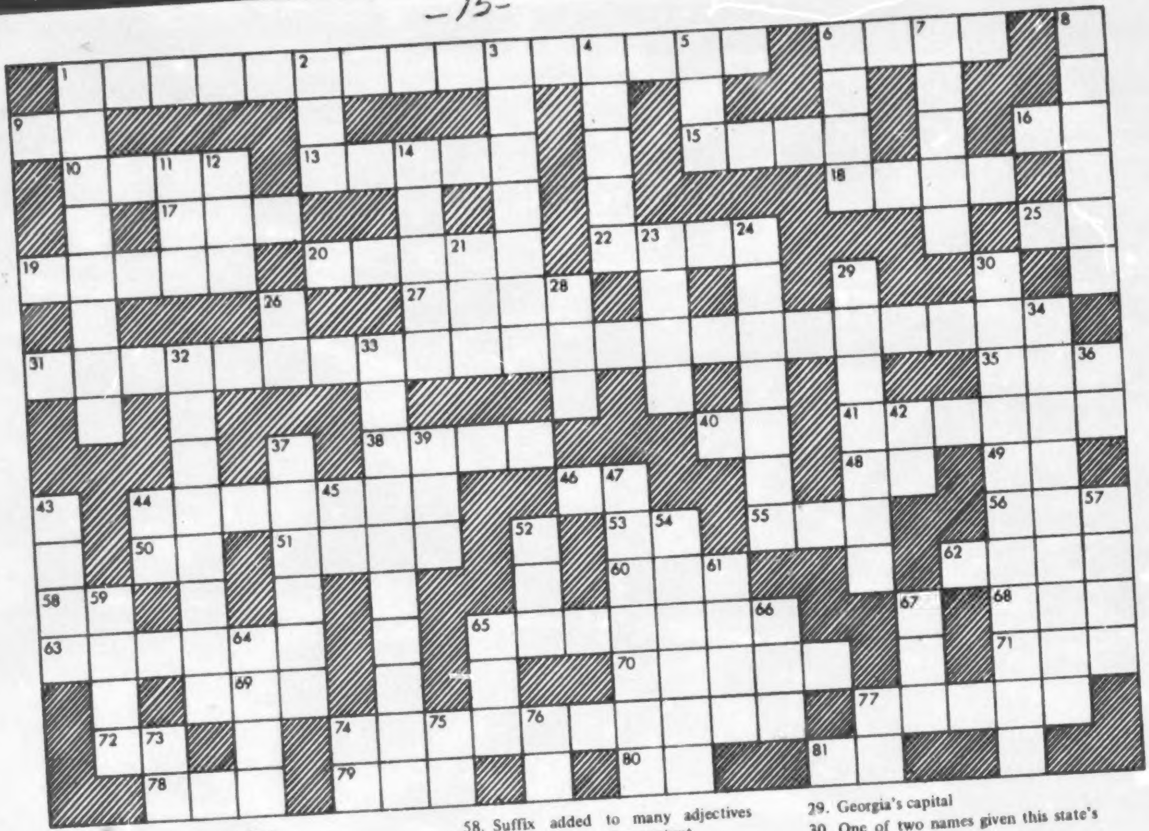
Note: This chart is based on a bill introduced in the House. Except for revenue and appropriation measures, any bill may also originate in the Senate. Procedure for passing a bill in the Senate is similar to that in the House, except as noted below.

1. Bill is filed with Clerk by member and assigned number.
2. On next legislative day, bill is read for first time (by title only) by Clerk. Speaker then refers bill to proper committee for consideration.
3. Public hearings on bill may be held by committee.
4. Clerk automatically reads bill for second time (by title only) on legislative day following first reading.*
5. Possible actions by committee:
   - (a) May recommend that bill Do Pass
   - (b) May recommend that bill Do Not Pass
   - (c) May recommend that bill Do Pass With Changes (for example, by committee amendment or substitute)
   - (d) May report bill with no recommendations**
   - (e) May hold bill
6. (a) If committee report is favorable, bill is passed to third reading without question.
   (b) If committee report is unfavorable, bill may be passed to third reading if House votes to disagree with unfavorable report.
7. Clerk reads bill for third time (in its entirety) in House. Bill is debated on floor, where it is subject to amendment or substitute, and passed by majority vote of total membership of House.
8. Bill is engrossed and transmitted to Senate.
9. If passed by Senate in identical form, bill is enrolled and signed by Speaker and Clerk in House, and by President and Secretary in Senate.***
10. Bill is then sent to Governor, who may sign it, veto it, or do nothing. Unless vetoed by Governor, bill becomes law. If bill is vetoed, it is sent back to its house of origin. Bill becomes law if two-thirds of membership in each house vote to override veto.

* Second reading in Senate occurs only after committee reports bill out.

** In Senate, bills are not reported out of committee without recommendation.

*** If Senate passes amended version of bill as passed by House, bill is then sent back to House, which may agree or disagree to amendments. If House disagrees to amendments, and neither house recedes from position, conference committee may be established with representatives from both houses to attempt to reach compromise. If conference committee reaches agreement, both houses must agree to conference committee report before bill is sent to Governor.

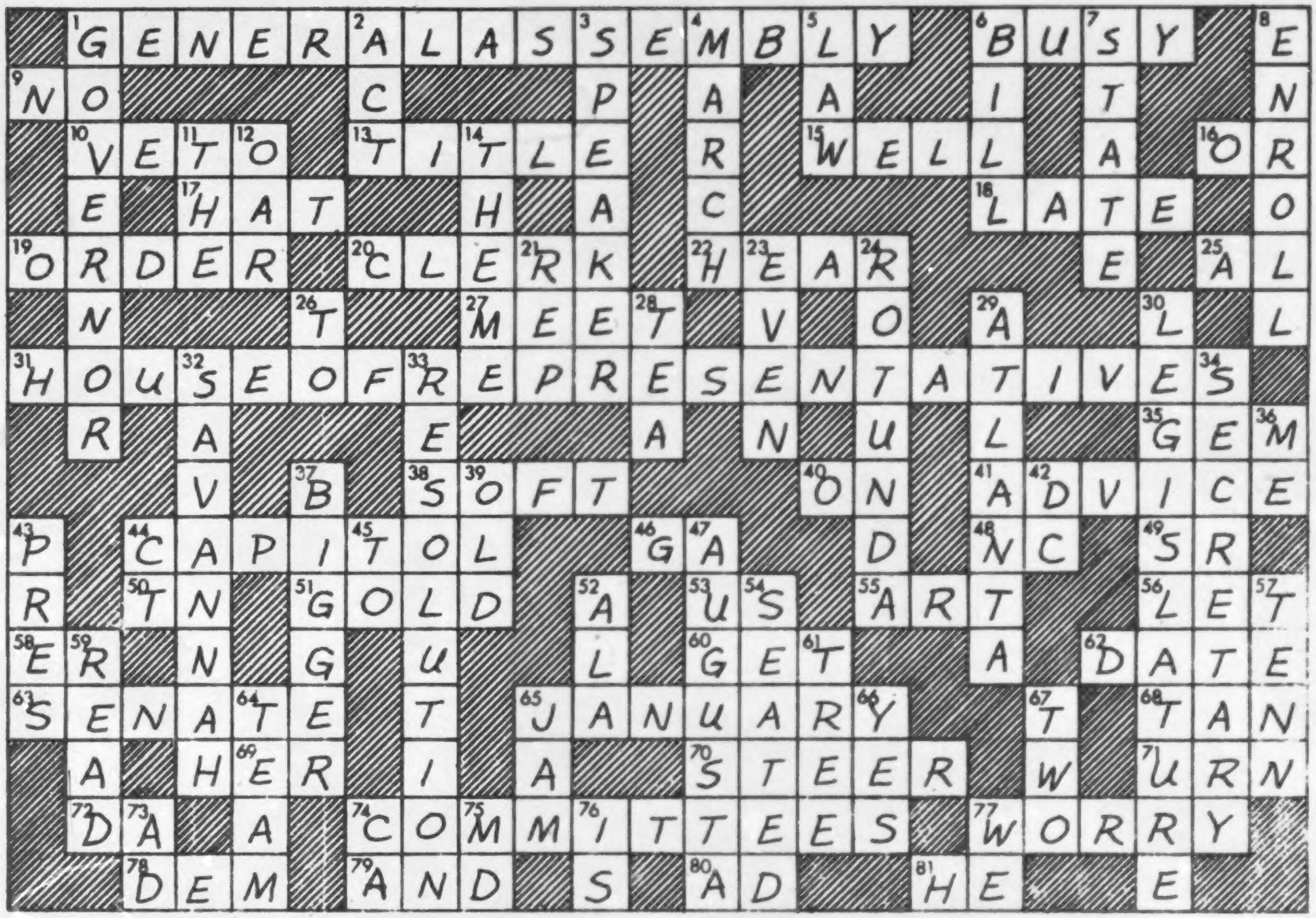


ACROSS

1. Formal title of Georgia's legislative body (2 words)
6. Hectic pace
9. On voting machine's tally board, a red light beside a member's name signifies a _____ vote
10. How a Governor can prevent a bill passed by the legislature from becoming law
13. Introduction to bill which summarizes contents
15. Name given to specific location at front of legislative chamber from which a member may address the body or debate a bill
16. Conjunction
17. In announcing candidacy, one is often said to throw his _____ in the ring
18. Not early
19. Sometimes, the presiding officer must restore _____ when proceedings become too lively
20. Staff officer in the House with whom bills are introduced
22. With many people on the floor, it sometimes is difficult for legislators to _____ the speaker in the well
25. American League (abbrev.)
27. To assemble
31. Largest of two houses in General Assembly (3 words)
35. Precious stone
38. Not Hard
40. Atop
41. What a veteran legislator might give a new member on occasion
44. Building where legislature meets
46. Georgia (abbrev.)
48. Adjoining state to the north (abbrev.)
49. Prefix to a resolution's number indicating a Senate Resolution
50. Adjoining state to the north (2-letter postal abbrev.)
51. Covers Georgia's capitol dome
53. This nation (abbrev.)
55. Moving and eloquent debate is sometimes said to be a fine _______
56. Allow
58. Suffix added to many adjectives used in comparative context
60. Obtain
62. Time when event occurs
63. Smaller house within legislature
65. Month of convening legislature
68. Shade of brown
69. Feminine personal pronoun
70. To manage or direct strategy for a particular bill
71. Type of vase
72. District attorney (abbrev.)
74. Groupings of legislators appointed to study legislative proposals
77. Feel concern
78. Majority political party in General Assembly (abbrev.)
79. Conjunction
80. Found in the paper to inform public about local bills affecting citizens of that area
81. Pronoun, third person singular (masculine)

DOWN

1. State's chief executive officer
2. After Governor signs it, a bill becomes an ______
3. Presiding officer in the House
4. Month legislature adjourns
5. Another name for an act
6. Form a legislative proposal takes
7. Georgia is one of these
8. To certify the official version of a bill as passed both houses before sending to the Governor
11. Article of speech
12. Used to propel some boats
14. Underlying topic of a book or article
21. Minority political party in legislature (abbrev.)
23. Elections for all members of the General Assembly are held in all _____-numbered years
24. Central interior of the capitol under the dome
26. Preposition indicating direction
28. As the price of coffee goes up, many people are turning to this
29. Georgia's capital
30. One of two names given this state's lawmaking body
32. First capital of Georgia
33. Legislative proposal similar to bill
34. Staff officer in the Senate with whom bills are introduced
36. Pronoun, 1st person sing.
37. Comparative of big
39. Not new
42. Washington, ______
43. Presiding officer in the Senate, formal title (abbrev.)
44. New England state whose capital is Hartford (2-letter postal abbrev.)
45. Preposition
47. Second capital of Georgia
52. Adjoining state to the west (abbrev.)
54. The presiding officer must sometimes order that all persons on the floor of that chamber be _____ before deliberations can continue
57. Nashville is capital of this state
59. A bill must be _____ three times in a house before voting on that bill can occur
61. Wood-producing plant
64. Group of players
65. So many bills pile up for consideration during the last few days of a legislative session that a "log- _____" is said to occur
66. When using the electronic voting system, a green light besides a member's name means a _____ vote
67. Number of years of a legislator's term
73. Athletic director (abbrev.)
74. Largest western state (2-letter postal abbrev.)
75. Border southern state whose capital is Annapolis (2-letter postal abbrev.)
76. Form of the verb "am"
77. Pronoun, first person plural



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